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CLERK'S COPY.

Vol. II

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1937

No. 144

D. B. HEINER, INDIVIDUALLY AND AS FORMER COLLECTOR OF INTERNAL REVENUE FOR THE TWENTY-THIRD DISTRICT OF PENNSYLVANIA, PETITIONER

vs.

PAUL MELLON, DAVID K. E. BRUCE, AND DONALD D. SHEPARD, EXECUTORS OF THE ESTATE OF A. W. MELLON, DECEASED

No. 145

D. B. HEINER, INDIVIDUALLY AND AS FORMER COLLECTOR OF INTERNAL REVENUE FOR THE TWENTY-THIRD DISTRICT OF PENNSYLVANIA, PETITIONER

vs.

JENNIE KING MELLON, RICHARD KING MELLON, SARAH MELLON SCAIFE, ET AL., ETC.

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED JUNE 15, 1937

CERTIORARI GRANTED OCTOBER 11, 1937

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INDEX TO RECORD.

BILL OF EXCEPTIONS.

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(The Court later in the trial, upon motion of the defendant for leave to amend his affidavit of defense in answer to Paragraph 22 of the statement of claim, allowed an amendment in answer to the second or last sentence of Paragraph 22 of said statement of claim, as will hereinafter appear.)

Mr. Booth:

Paragraph 23, except that the amount of the deficiency in this case asserted by the Commissioner was $41,008.84:

> 23. In his final deficiency letter to the plaintiff, dated March 15, 1929, covering the year 1925, the Commissioner notified plaintiff that a deficiency of $41,008.84 would be assessed unless an appeal were taken to the United States Board of Tax Appeals within sixty days. Plaintiff took no appeal, and the deficiency was assessed and payment duly made. This deficiency arose by virtue of the Commissioner's action in determining a profit on the liquidation of the said partnerships of A. Overholt & Company and West Overton Distilling Company in excess of that reported. He eliminated from ordinary income the so-called current profits for the year 1925 reported by plaintiff on his tax return from the liquidation of said partnerships and included as capital gain the entire net profit on the liquidation, together with the aforementioned profit for the year 1920 upon which the additional assessment for that year was based, giving the following explanation:

Profit reported on the liquidation of A. Overholt & Company and West Overton Distilling Company has been eliminated as it is held that the profit on the liquidation of the above companies is capital net gain.

Mr. Eustace:

To which offer the defendant objects, for the reason that Paragraph 23 of the statement of claim is wholly immaterial and irrelevant, does not present any issue material to the determination of the issues in this case, and as redundant.

The Court:

The objection is overruled for the present, and exception noted.

Mr. Booth:

Paragraph 25, as far as admitted, in that the claim for refund was for $187,787.17:

25. On or about March 19, 1929, plaintiff filed with the defendant, on the form prescribed by the Commissioner for that purpose, claim for refund of $187,787.17 for the year 1920.

Paragraph 26:

26. Although more than six months' time has expired since the filing of this claim for refund the Commissioner has taken no action thereon either as to the allowance or the disallowance of said refund.

I call the Court's attention to the fact that the statement of claim, as shown by the record, was filed October 24, 1933, and that on that date this statement was true, although it is not true now.

Paragraph 28:

28. The Commissioner of Internal Revenue has included * * * profits of $281,779.95 and $52,-814.28 of A. Overholt & Company and West Overton Distilling Company, respec vely, in the income of the plaintiff for the year 19), and has also included said * * * profits in plaintiff's income for 1925. He has assessed and collected a tax on the same income in each of said years.

Mr. Eustace:

Objection is made to that part of Paragraph 28 of the statement of claim reading "and has also included said profits in plaintiff's income for 1925", for the reason that it is irrelevant and immaterial; and also the last sentence of Paragraph 28, reading "He has assessed and collected a tax on the same income in each of said years," for the reason that that allegation is irrelevant and immaterial.

The Court:

That objection is overruled for the present, and exception noted.

Mr. Booth:

If the Court please, I offer in evidence as Plaintiffs' Exhibit No. 1, claim for refund filed by R. B. Mellon on or about March 19, 1929 of income tax for the year 1920.

Mr. Booth:

I offer in evidence claim for refund for the year 1920 filed by A. W. Mellon on or about March 19, 1929, duly certified in accordance with law. The claim for refund has two letters attached to it, which are not

properly part of the claim for refund, and the offer in evidence does not include those two letters, but for the purpose of convenience and at the request of the defendant, we are leaving them attached to the claim for refund; they are to be excluded from our exhibit, however. The claim for refund is offered as Plaintiff's Exhibit No. 2.

Mr. Eustace:

No objection.

Mr. Booth:

If the Court please, I offer in evidence as Plaintiffs' Exhibit No. 3 income tax return filed on behalf of A. Overholt & Company for the year 1920.

I also offer in evidence, as Plaintiffs' Exhibit No. 4, return of income filed by West Overton Distilling Company for the year 1920.

Plaintiffs' said Exhibits 1, 2, 3 and 4 so offered and admitted in evidence are in words and figures as follows, to-wit:

Plaintiffs' Exhibit No. 1.

(Page 349.)

Plaintiffs' Exhibit No. 2.

(Page 350.)

Plaintiffs' Exhibit No. 3.

(Page 351.)

Plaintiffs' Exhibit No. 4.

(Page 352.)

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PAGE

(EXECUTE SEPARATE FORM FOR EACH TAX PERIOD)

CLAIM FOR

- [ ] ABATEMENT OF TAX ASSESSED
- [ ] CREDIT AGAINST OUTSTANDING ASSESSMENTS
- [x] REFUND OF TAXES ILLEGALLY COLLECTED
- [ ] REFUND OF AMOUNTS PAID FOR STAMPS USED IN ERROR OR EXCESS

COLLECTOR'S NOTATION
District
Account number
Date received
RECEIVED
Collector of Internal Revenue
23rd District of Pennsylvania
MAR 19 29
PITTSBURGH OFFICE
Collector of Internal Revenue

State of Pennsylvania 1928
County of Allegheny

NOTICE TO COLLECTOR
Collector must indicate in block above the kind of claim, except in Income Tax cases.

RECEIVED
Date received by Administrative Unit
MAR 25 1929
CLAIMS CONTROL
BRANCH

H. B. MELLON
(Name of taxpayer or purchaser of stamps.)

6500 Fifth Avenue,
(Residence—give street and number as well as city or town and State.)

Pittsburgh, Pa.

This deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named, and that the facts given below with reference to said statement are true and complete:

	PERIOD	YEAR
	From Jan. 1	
	To Dec. 31	

1. Business engaged in: Banker
2. Nature of assessment or tax: Income
   (State for or upon what the tax was assessed or the stamps affixed.)
3. Amount of assessment or stamps purchased: $
4. Application of Tax Liability requested (Income and Profits Tax): $
5. Amount to be abated: $
6. Amount to be refunded (or such greater amount as is legally refundable): $ 187,78[illegible]
7. Date of payment (see Collector's receipts or indorsements on cancelled checks): 5/29/27
8. Internal revenue tax Liability, items 8-11, inclusive, must be answered if income tax return (if any) was filed: 23rd Penn'a.
9. Name and address of permanent partners:
10. Name of business planned on account:
11. Period during which credit is asked: period from _____ to _____
12. Reasons why this application should be allowed for the following reasons:

RECEIVED
MAY 27 1929
Office of Chief, Refund Section

In my returns for 1920 there was included in my income the [illegible] as operating profits of the partnerships [illegible] and West Overton Distilling Co., respectively. [illegible] of Internal Revenue increased the income reported from t[illegible] $[illegible].[illegible].95 and $52,814.28, respectively, and assess[illegible] additional taxes thereon. Mr. H. C. Frick, one the partners, [illegible] the remaining assets of these partnerships were [illegible] The Commissioner of Internal Revenue has det[illegible] were in liquidation from the death of Mr. Frick [illegible] remaining partners and the Estate are tax[illegible] 1925 when final liquidation was made and that no profit or loss for any year from 1919

(continued on attached sheet)

(Attach additional sheets if necessary.)

Subscribed and sworn to before me this 21st day of June, 1929

Signed: R B Mellon

Thos. D. Anderson
N. V. ANDERSON, Notary Public
MY COMMISSION EXPIRES
(Title.)

Notary Public.

(Affidavit may be sworn to before a Deputy Collector of Internal Revenue or Revenue Agent without charge.)

20880

CERTIFICATES

I certify that an examination of the records of the Bureau of Internal Revenue shows the following facts as to the assessment and payment of the tax:

Name of taxpayer.	Character of assessment and period covered.	List.	Year.	Month.	Page.	Line.	Amount.	Date paid.	District in which paid.
R. B. Mellon		L3	1921	304	190		Tax 406678.28 $101668.32	3-15-21	23rd D.
650 Frick Bldg. Inc.	Income						101668.32	6-17-21	" "
Pittsburgh, Pa.	1920						101668.32	9-19-21	" "
							101668.32	12-17-21	" "
		L3	1927	May	010		Tax 175257.70		
							Int 12527.47		
							187787.17	6-19-27	

Collector of Internal Revenue

Assessment Clerk, Commissioner's Office

I certify that the records of my office show the following facts as to the purchase of stamps:

Kind.	Number.	Denomination.	Date of sale or issue.	Amount.	If special tax stamp, state: Serial number.	Period commencing.
				$		

Collector _____ District _____

REJECTED
21413
I. T. SCHEDULE

Schedule Number _____ District _____

Allowed or Rejected Number _____

(Nature of tax.)

Claimant _____

Address _____

Examined and submitted for action _____, 19____

COMMITTEE ON CLAIMS

Amount claimed $ 187787.12

Amount allowed $ _____

Amount rejected $ 187787.12

Claim approved for _____

Date of allowance _____

12/11/33

No. 41704

to 1924 resulting from said liquidation should be added to or subtracted from the partners individual incomes for those years. Accordingly the income of the taxpayer for the year 1920 should be reduced by the amounts of $281,779.95 and $52,814.28, erroneously included by the Commissioner in income for that year.

(EXECUTE SEPARATE FORM FOR EACH TAX PERIOD)

TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
FORM —Jan., 1922
Comptroller General U. S.
January 18, 1922

CLAIM FOR

- [ ] ABATEMENT OF TAX ASSESSED
- [ ] CREDIT AGAINST OUTSTANDING ASSESSMENTS
- [X] REFUND OF TAXES ILLEGALLY COLLECTED
- [ ] REFUND OF AMOUNTS PAID FOR STAMPS USED IN ERROR OR EXCESS

1951

IMPORTANT
File with Collector of Internal Revenue where assessment was made. Not acceptable unless completely filled in.

COLLECTOR'S NOTATION
District
Account number
Date received

RECEIVED
Collector of Internal Revenue
23rd District of Pennsylvania
MAR 19 1929
PITTSBURGH OFFICE
Collector of Internal Revenue

State of Pennsylvania
County of Allegheny } ss:

NOTICE TO COLLECTOR
Collector must indicate in block above the kind of claim, except in Income Tax cases.

RECEIVED
Date received by Administrative Unit
MAR 25 1929
Stamp here
CLAIMS CONTROL SECTION

TYPE OR PRINT

A. W. MELLON
(Name of taxpayer or purchaser of stamps.)
Pittsburgh, Pennsylvania.
(Residence—give street and number, or post-office address, town and State.)
(Business address.)

This deponent, being duly sworn according to law, deposes and says that this statement is made on be[redacted] that the facts given below with reference to said statement are true and complete:

1. Business in which engaged Secretary of the Treasury
2. Character of assessment or tax Income
(State for or upon what the tax was assessed or the stamps affixed.)
3. Amount of assessment or stamps purchased $
4. Reduction of Tax Liability requested (Income and Profits Tax) $
5. Amount to be abated $
6. Amount to be refunded (or such greater amount as is legally refundable) $124,160.75
7. Date of payment (see Collector's receipts or indorsements of canceled checks) 3/1/27
(If statement covers income tax liability, items 8-11, inclusive, must be answered.)
8. District in which return (if any) was filed 23rd Penn'a.
9. District in which unpaid assessment appears
10. Amount of overpayment claimed as credit
11. Unpaid assessment against which credit is asked; period from to

RECEIVED
MAY 27 1929
Office of Chief Output Review Division

Deponent verily believes that this application should be allowed for the following reasons:

In my tax return for 1920 there was included in my income the amounts of $48,350.74 and $5,960.55 as operating profits of the partnerships of A. Overholt & Company and West Overton Distilling Co., respectively. The Commissioner of Internal Revenue increased the income reported from these partnerships to $281,779.95 and $52,814.28, respectively, and asse[redacted] lected additional taxes thereon. Mr. H. C. Frick, one of the [redacted] in 1919. In 1925 the remaining assets of these partnerships [redacted] distribution made. The Commissioner of Internal Revenue has determined that these businesses were in liquidation from the death of Mr. Frick on Dec. 3, 1919 and that the remaining partners and the Estate are taxable in 1925 when final liquidation was made and that no profit or loss for any year

(continued on attached sheet)

(Attach additional sheets if necessary.)

Sworn to and subscribed before me this 19th day of March, 1929

M. E. Conner
Notary Public.
(Title.)

M. E. CONNER, Notary Public
MY COMMISSION EXPIRES MARCH 11, 1933

Signed:
A. W. Mellon
by Hal Johnson
Agent

(This affidavit may be sworn to before a Deputy Collector of Internal Revenue or Revenue Agent without charge.)

2092701

Schedule No. _____

CERTIFICATES

I certify that an examination of the records of the Bureau of Internal Revenue shows the following facts as to the assessment and payment of the tax:

Name of taxpayer.	Character of assessment and period covered.	List.	Year.	Month.	Page.	Line.	Amount.	Date paid.	District in which paid.
							Tax 9,977.86		
C. H. Mellon		CT	1921	30489			$22999.44 46	6-17-21	23rd Dist.
Pittsburgh Pa.							22999.44 46	6-17-21	
	Income						22999.44 77	7-14-21	
	1920						22999.44 46	12-13-21	
							1650.69	Int. Ret. 33	
		CT	1921	Mar	20	13	1907.19 70		
							Int. 1208.82		
							30250.22	4-2-27	

_____
Collector of Internal Revenue.

_____
Assessment Clerk, Commissioner's Office.

Claim No. _____

I certify that the records of my office show the following facts as to the purchase of stamps:

Taxpayer name as above.	Kind.	Number.	Denomination.	Date of sale or issue.	Amount.	If special tax stamp, state: Serial number.	Period commencing—
					$		

_____
Collector _____ District _____

Schedule Number _____

Claim or Rejected Number _____

Claimant _____

REJECTED
21413
I. T. SCHEDULE

District _____

_____
(Nature of tax.)

Examined and submitted for action _____, 19____

COMMITTEE ON CLAIMS

Amount claimed $19416075

Amount allowed $ _____

Amount rejected $19416075

_____
_____
_____

from 1919 to 1924 resulting from said liquidation should be added to or subtracted from the partners individual incomes for those years. Accordingly the income of the taxpayer for the year 1920 should be reduced by the amounts of $281,779.95 and $52,814.28, erroneously included by the Commissioner in income for that year.

HWG

N3

[redacted]

UM IS FOR
AR YEAR 1920
WITH THE
ECTOR OF
AL REVENUE
UR DISTRICT
R BEFORE
CH 15, 1921

R A PERIOD
ER THAN A
AR YEAR, THE
I SHOULD BE
N OR BEFORE
TH DAY OF
IRD MONTH
OWING THE
E OF SUCH
ERIOD

[redacted]

FOR CALENDAR YEAR 1920

Or for period begun JAN. 1, 1920, and ended DEC. 31 1920, 19__

If the return is made for a period other than a calendar year, the dates of the beginning and ending of the period covered must be plainly stated in the space provided above.

PRINT PLAINLY PARTNERSHIP'S OR CORPORATION'S NAME AND PRINCIPAL ADDRESS

A Overholt & Co
1010 Frick Bldg
Pittsburgh Pa

Inventory 3-31-23

YEAR IN SCHEDULE

PENNSYLVANIA

Div. Dist. PENNA.

BUSINESS ..... STATE WHETHER PARTNERSHIP OR CORPORATION

SCHEDULE A—INCOME TO BE ACCOUNTED FOR BY MEMBERS.

GROSS INCOME												
...es, less returns and allowances												
...of goods sold, exclusive of expenses, repairs, and other items called for separately (from Schedule A2)												
...come from services or from operations other than trading or manufacturing, less allowances (from Schedule A3)					165	868	40					
...on obligations of the United States issued since September 1, 1917 (except Victory Liberty Loan 3¾% Notes), and ...nance Corporation Bonds (from Schedule B, see Schedule A4)												
...interest from all other sources (not including interest referred to under Item 2, Schedule D) (from Schedule A5)					3	480	73					
Rented Property.						300	00					
...net income earned by a partnership or personal service corporation during its accounting period (whether received												
...s from earnings of corporations taxable by the United States on their net incomes (including dividends on stock of ...al service corporations declared out of profits earned prior to January 1, 1918) (from Schedule A9)												
...s on stock of foreign corporations not taxable by the United States on their net income (from Schedule A10)												
...come from all other sources (not including any amount reported in Item 23 below) (from Schedule A11)												
TOTAL OF ITEMS 1 TO 11											169	649 13
DEDUCTIONS												
...and necessary expenses (except amounts reported in Item 2 above or called for separately below) (from Schedule					19	255	95					
...tion of members (including shareholders of personal service corporation who drew salaries therefrom and salaries, ...sions, and other compensation in whatever form paid) (from Schedule A14)												
...including labor, supplies, etc.) (from Schedule A15) Misc. Repairs Rented Property.						32	80					
...from Schedule A16)												
...cept Federal income and profits taxes, and taxes which are a credit under Section 222 or Section 238, and taxes ...d against local benefits of a kind tending to increase the value of the property assessed)												
...certained to be worthless and charged off during accounting period (from Schedule A18)												
...on, wear and tear (including obsolescence) (from Schedule A19)												
[redacted]												
...TAL OF ITEMS 12 TO 22											[redacted]	
...FERENCE BETWEEN ITEMS 12 AND 23											[redacted]	
...on sales of capital assets and miscellaneous investments, including liquidating dividends (from Schedule A23)					[redacted]	5	320	75				
...tained during accounting period and not compensated for by insurance or otherwise (from Schedule A24)						[redacted]						
...ion of War Facilities (from Schedule A25). (Extend to last column resulting net total of Items 23, 24, and 25)								[redacted]		5	320	75
...ME FOR ACCOUNTING PERIOD TO BE ACCOUNTED FOR BY MEMBERS (TOTAL OF OR DIFFERENCE BETWEEN ITEM ...ITEM 26)											145	054 23

SCHEDULE B—INTEREST ON LIBERTY BONDS, ETC.

	First Liberty Loan Converted 4% Bonds of 1932-47.	Second Liberty Loan 4% Bonds of 1927-42.	First Liberty Loan Converted 4¼% Bonds of 1932-47.	Second Liberty Loan Converted 4¼% Bonds of 1927-42.	Third Liberty Loan 4¼% Bonds of 1928	First Liberty Loan Converted 4¼% Bonds of 1932-47.	Fourth Liberty Loan 4¼% Bonds of 1933-38.	U. S. Treasury obligations issued since September 1, 1917.	Victory Liberty Loan 3¾% Notes of 1922-23.	War Finance Corporation 3% Bonds of 1930.
...	June 15, December 15.	May 15, November 15.	June 15, December 15.	May 15, November 15.	March 15, September 15.	June 15, December 15.	April 15, October 15.		June 15, December 15.	April 1, October 1.
...erest	$	$	$	$	$	$	$	$	$	$

...NTEREST ON ALL OBLIGATIONS AS SHOWN ABOVE (to be entered as Item 4, Schedule A, and distributed in column 5, Schedule C) ..... $

RETURN AUDITED

nt of interest ... $ ... $ ... $ ... $ ... $ ... $ ... $ ... $ ... $ ... $

TOTAL INTEREST ON ALL OBLIGATIONS AS SHOWN ABOVE (to be entered as Item 4, Schedule A, and distributed in column 5, Schedule C) ... $

the amount of Victory Liberty Loan 3¾% and 4¾% Notes originally subscribed for and still owned at the date of filing this return ... $

the amount of Fourth Liberty Loan 4¼% Bonds originally subscribed for and still owned at the date of filing this return ... $

SCHEDULE C—MEMBERS' SHARES OF INCOME, ETC.

nter below the share of net income (whether distributed or not) of each member of the partnership or subsidiary of the personal service corporation and each member of the estate of come and profits taxes paid by the partnership or corporation to a foreign country or to a possession of the United States. (See page 1 of instructions, paragraphs 10 to 14, inclusive.) the distributable income in the last column are distributed on a basis other than a percentage, attach an explanatory statement.

Members of partnership or stockholders of personal service corporation

1. Name and address of each, as shown on individual tax return.	2. Interest on each bond of a State, Territory, or possession.	3. Interest on Third Liberty Loan, Second Liberty Loan, Victory Loan.	4. Dividends.	5. Interest on obligations of the U. S. issued since Sept. 1, 1917, and War Savings Certificates. Class 2, Schd. A.	6. Other income.	7. Income that [illegible]
Richard B. Mellon, Pittsburgh, Pa.	1/3					
Alva Mellon	1/3					
Estate of H.C.Frick, Pittsburgh, Pa.	1/3					
TOTALS						

I, undersigned, being severally duly sworn, each for himself, [illegible] to the best of his knowledge and belief a true and complete [illegible] and statements have been prepared by him under authority thereof. [illegible] and the Regulations

Sworn to and subscribed before me this [illegible] day of [illegible]

[illegible] officer [illegible] affidavit.

[illegible] Richard B. Mellon

[illegible] (Signature of partner)

[illegible] (Signature of partner)

[illegible] (Signature of partner)

My Commission Expires [illegible]

February 21, 1922

1/18/22

SCHEDULE D—RECONCILIATION OF NET INCOME AND ANALYSIS OF CHANGES IN SURPLUS.

m Schedule A, Item 28	$ 145 052 25
be accounted for by members:	
n obligations of the United States issued before September 1, 1917, Victory Liberty Loan 4¾% Notes and obligations United States' possession	
en obligations of States, Territories, and political subdivisions thereof	
n Farm Loan Bonds issued under Federal Farm Loan	
s on stock of personal service corporations from net earned during the period between January 1, 1918, and inning of present accounting period	
hich are derived from the sale of vessels, and which are under Section 28 of the Merchant Marine Act of 1920	
ems (to be detailed):	
reserves for bad debts, contingencies, etc. (to be detailed):	
1 to 3, inclusive	$ 145 052 25
m 13	
period as shown by books, before any adjustments are (Item 4 minus Item 5)	$ 145 052 25
undivided profits as shown by balance sheet at close of xable period	
o surplus (to be detailed):	
6 to 8, inclusive	$
undivided profits as shown by balance sheet at close of period (Item 9 minus Item 10)	$ 145 052 25

11. Deductible deductions:	
[redacted]	
(d) [redacted]	
(e) Depletion and depreciation	
(f) Interest on indebtedness incurred or assumed (a) [redacted] other than obligations of the United States issued after September 24, 1917), the interest upon which is wholly exempt from taxation	
(h) Additions to sinking fund reserve, and reserves for bad debts and other contingencies (to be detailed):	
(1)	
(2)	
(3)	
(i) Other unallowable deductions (to be detailed):	
(1)	
(2)	
(3)	
12. Total of Item 12	$
14. Dividends or withdrawals (state whether paid in cash, stock of this company, or other property):	
(a) Date paid ..... Character	$
(b) Date paid ..... Character	
(c) Date paid ..... Character	
(d) Date paid ..... Character	
15. Other debits to surplus (to be detailed):	
(a)	
(b)	
15. Total of Items 14 and 15	$

SCHEDULE E—BALANCE SHEETS.

eto balance sheets as of the beginning and end of the taxable year (preferably in parallel columns), showing as nearly as practicable the details called for below: (These should be prepared from the books and should be in agreement therewith, or any differences should be reconciled.)

ASSETS.

sh in bank and on hand, certificates of deposit, etc.).
fore deducting reserves for losses).
m customers.
l notes receivable (to be classified).
s.
ses.
ccts.
s and obligations (each issue to be stated separately).
municipal, State, etc.).
ations—
s:
d employees.
future expenditures (to be detailed.)

ASSETS (Continued).

Fixed assets:
- Land.
- Buildings.
- Machinery.
- Tools and minor equipment.
- Delivery equipment.
- Office furniture.
- Other (state character).

TOTAL.

Less reserves for depreciation and depletion (show separately amount applicable to each fixed asset).*

NET VALUE.

Patents, good will, and other intangible assets:
- Paid for in cash or other tangible property.
- Paid for in [redacted] (other than stock dividends) or in shares of [redacted] stock dividend or otherwise.

Discount:
- On [redacted].
- On stock.

TOTAL.

LIABILITIES.

Loans and notes payable:
- To members.
- To others (including bank loans).

Accounts payable:
- Trade.
- Other.

Accrued expenses and reserves, the charges creating which are allowable deductions from income (to be detailed).

Reserves, the charges creating which are not allowable deductions from income (to be detailed):
- Reserves for losses on notes and accounts receivable.
- Other reserves (to be detailed).

Capital stock outstanding (to be classified) or all partners' capital and current accounts (to be detailed).

Surplus and undivided profits.

TOTAL.

*[redacted] may be deducted from the respective asset accounts or itemized on the liability side of the balance sheet.

QUESTIONS.

KIND OF BUSINESS.

[redacted] by letters given below, identify the corporation's main income producing activity with nesses, and follow this by a special description of the business, sufficient to give the information h general class:

[redacted] and related industries, including fishing, logging, ice harvesting, etc., including the leasing State the product or products. B—Mining and quarrying, including gas and oil wells. of such property. State the product or products. C—Manufacturing. State the product al if not implied by the name of the product. D—Construction—contractors, buildings, ships, etc., also equipping and installing same with systems, devices, or machinery, without State nature of structures built, materials used or kind of installations. E1—Transportaical, etc. State the kind and special product transported, if any. E2—Public utilities—gas ter); electric light or power (hydro or steam generated); heating (steam or hot water); tele or power. E3—Storage—without trading or profit from sales (elevator, warehouses, stock product stored. E4—Leasing transportation or utilities. State kind of property. F—ought and not produced by the trading concern. State manner of trade, whether wholesale, n, and the product handled. Sales with storage with profit primarily from sales. G—Service hotels, restaurants, etc.; amusements; other professional, personal, or technical service. H—Finance, including banking, real estate, insurance. I—Concerns not falling in above of combining several of them with no predominant business, or (i) for other reasons. hose business involves activity falling in two or more of the above general classes, where the erned, should report business as identified with but one of the above general classes, for in A or B which also transport and market their own product exclusively or mainly, should ith classes A or B; concerns in C (manufacturing) [illegible]

13. If the answer to questions 10, 11, and 12, or any of them, is "yes," the following information should be furnished as at the beginning of the accounting period, indicating any substantial changes during such period:

NAME OF SHAREHOLDER.	(Name of corporation) (Address) Shares held:	Percentage of stockholdings.	(Name of corporation) (Address) Shares held.	Percentage of stockholdings.
Total				

...D3—Storage—without trading or profit from sales (warehouse, warehouses, stock-...ate product stored. E4—Leasing transportation or utilities. State kind of property. F—...ds bought and not produced by the trading concern. State manner of trade, whether wholesale, ...sion, and the product handled. Sales with storage with profit primarily from sales. G—Service—...ding hotels, restaurants, etc.; amusements; other professional, personal, or business service...ce. H—Finance, including banking, real estate, insurance. I—General not falling in above ...use of combining several of them with no predominant business, or (b) for other reasons.

...s whose business involves activity falling in two or more of the above general classes, where the ...concerned, should report business as identified with that one of the above general classes, for ...rns in A or B which also transport and market their own product exclusively or mainly, should ...d with classes A or B; concerns in C (manufacturing) which own or control their raw material, should ...B and which also transport, sell, or install their own product exclusively or mainly, should be ...manufacturing; concerns in D may control or own sources of supply of materials and exclusively ...eir constructive work; concerns in E1 or E3 may own or control the source of their material or ...s in F may transport or store their own merchandise, but its production would identify them ...

...:

...l class (use key letter designation) F.

...house producing business. Give specifically the information called for under each key letter, ...other acting as principal or as agent, on commission. State if inactive or in liquidation.

...ge of Whiskey - Bottling for Customers ... of Purchased Whiskey from corporation of ... name - Partnership in Liquidation.

...al service corporation must explain its business in sufficient detail to justify its claim to be deemed ...character of the business is different from that carried on during the preceding accounting period, ...e change must be explained. Where necessary, the statement should be made on a separate ...ould be firmly attached to this return.

OTHER CONCERNS IN SAME BUSINESS.

...rate a list of the names and addresses of five representative concerns in your locality or section ...engaged in the same kind of business.

ORGANIZATION OR INCORPORATION.

...rganization or incorporation December 20, 1918.

...orated, under the laws of what State?

...rporation a successor to or was it formed to take over or conduct part of the business of another ...

... If so, state name and address of predecessor or other organization, and in the latter ...ial, managerial, and contractual relationships existing between yourselves and the other organi-

VALUATIONS OF CAPITAL STOCK.

...s the fair value of the total capital stock of the corporation as determined in the last accounting ...capital stock tax?

...

AFFILIATIONS WITH CORPORATIONS.

...e corporation own directly or control through directly affiliated interests or by a nominee or ... 50 per cent of the outstanding voting capital stock of another corporation? No.

... 50 per cent of your voting capital stock owned by another corporation or by two or more corpora-...s affiliated?

... 50 per cent of your voting capital stock as well as over 50 per cent of the voting capital stock of ...ration or of other corporations owned or controlled by the same individual or partnership or by ...ividuals or partnerships?

	Shares held.	Percentage of stockholdings.	Shares held.	Percentage of stockholdings.
Total				
Shares outstanding beginning of year				
Shares outstanding end of year				

(a) Separate statements should be submitted for common and preferred stock, indicating (1) whether it had full voting privileges during the entire accounting period; (2) whether the voting privileges were cumulative; (3) whether these voting privileges were exercised during the accounting period; (4) the conditions by which these voting privileges may be modified or suspended.

(b) State the dividend privileges of the respective classes of stock; the rate of dividends paid during the accounting period; the date of the last dividend payment; and whether, and under what conditions, the preferred stock participates in the earnings above the fixed dividend rate.

(c) State if the preferred stock has preference in respect to distribution of assets, dividends or otherwise.

(d) Show separately the number of shares of each class held by the respective stockholders of each company, except where proportionable by reason of the large number of stockholders. Under such conditions show only those holding stock in two or more of the affiliated corporations.

(e) Indicate whether any of the stock was held during the accounting period conditionally or by agreement, expressed or implied, and state whether such arrangements are considered valid, giving supporting reasons.

(f) Indicate whether any stock is held by employees or officers and state their relationship to the corporation and the conditions, either expressed or implied, under which such stock was procured and was held during the accounting period. Also submit the following information in respect to such stockholdings as of the date of acquisition: (1) Par value of stock; (2) book value of stock; (3) market value of stock; (4) consideration or amount paid for such stock; (5) method of payment for such stock.

(g) If the stock in any one or more of the corporations is held by members of one family, or related families, state the relationship existing between the various stockholders and whether such stock was acquired by gift, purchase or otherwise.

(h) Explain fully the nature and extent of any intercompany transactions or development which may effect an actual distribution of profits or assign to any one of the affiliated corporations a disproportionate share of net income or invested capital.

Foreign corporations may not be included in consolidations.

GOVERNMENT CONTRACTS. None

14. Have any adjustments during the accounting period been made on account of contract or contracts with the Government, or do claims exist for such adjustments or renegotiation which you derived from directly or indirectly, through the operations of a claim based or otherwise? (Answer "Yes" or "No.") ...

If so, state the amounts involved, $ ...; whether or not such amounts are included in this return ...; and, if not, was an amended return accounting for the additional income filed for accounting period in which the contract was completed? ... Submit a schedule showing full particulars of the contract, date entered into, date the work began under said contract or contracts, and the amount and nature of the adjustment.

AMORTIZATION.

15. Has amortization been claimed? (Answer "Yes" or "No.") ... If so, for what year ... amount, $ ...

PREPARATION OF RETURN.

16. Was anyone employed gratuitously to prepare or advise in the preparation of this return? (Answer "Yes" or "No.") No. If so, give name and address and state to what extent such assistance or advice was received.

LIST OF ATTACHED SCHEDULES.

17. Attach a list of schedules accompanying this return, giving for each a brief title and a schedule number. (See opening paragraph on page 2 of instructions.)

AMENDED RETURNS.

An amended return must be plainly marked "Amended" across the face of return.

2—6674

a-2

IF RETURN IS FOR CALENDAR YEAR 1944 FILE IT WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1945

IF FOR A PERIOD OTHER THAN A CALENDAR YEAR, THE RETURN SHOULD BE FILED ON OR BEFORE THE 15TH DAY OF THE THIRD MONTH FOLLOWING THE CLOSE OF SUCH PERIOD

JUL 27 1945

KIND OF BUSINESS

1. Gross sales, less returns and a
2. Less cost of goods sold, exclu
below (from Schedule A2)
3. Gross income from services or
4. Interest on obligations of the
War Finance Corporation B
5. Taxable interest from all othe
6. Rentals
7. Royalties
8. Share of net income earned b
or not)
9. Dividends from earnings of c
personal service corporation
10. Dividends on stock of foreign
11. Gross income from all other s
12. TOTAL OF ITEMS 1 TO 1
13. Ordinary and necessary expe
A13)
14. Compensation of members (in
commissions, and other com
15. Repairs (including labor, sup
16. Interest (from Schedule A16)
17. Taxes (except Federal incom
assessed against local bene
18. Debts ascertained to be wort
19. Exhaustion, wear and tear (
20. [illegible]
21. TOTAL OF ITEMS 13 TO
22. DIFFERENCE BETWEE
23. Profit or loss on sales of capita
24. Losses sustained during accou
25. Amortization of War Facilitie
26. NET INCOME FOR ACCOUNTIN
22 AND ITEM 25)

OBLIGATIONS	First Liber Loan Conver 4% Bonds o 1952-47.
INTEREST DATES	June 15. December 1
Amount of interest	$

TOTAL INTEREST ON ALL O

AMOUNTS OF INCOME ...

TOTAL INTEREST ON ALL OBLIGATIONS AS SHOWN ...

State the amount of Victory Liberty Loan 3¾% and 4¼% ...

State the amount of Fourth Liberty Loan 4¼% Bonds owned ...

$C...

Enter below the share of net income (whether distributed or not) ... any income and profits taxes paid by the partnership or corporation ...
If the distributable interests in the net income are ...

Number of partnership or fiduciary income tax return ...

1. Name and address of each, as shown on individual tax return ...

(a) Richard B. Mellon, Pittsburgh, ...

(b) Andrew W. Mellon ...

(c) Estate of H.C.Frick, Pittsburgh ...

(d) .....

(e) .....

(f) .....

(g) .....

(h) .....

(i) TOTALS ...

The undersigned, being severally duly sworn, each for ... and is to the best of his knowledge and belief a true and ... issued under authority thereof.

Sworn to and subscribed before me this ...

Seal of officer making affidavit.

My Commission Expir...
February 21, 1923

7/18 2 2

Plaintiff's Ex. 3 10/29/34 H.T.

LIST OF SCHEDULES ATTACHED:

Schedule "E" - Balance Sheets.

Schedule A-3 - Gross Income other than Manufacturing.

Schedule A-5 - Taxable Interest.

Schedule A-13 - Ordinary & Necessary Expenses.

Schedule A-14 - Compensation of Member.

Schedule A-23 - Sale of Investment or Assets.

List of Other Concerns in same business.

SPECIAL SCHEDULE ON ACCOUNT LIQUIDATION.

REC'D - 1418
MAR 15 1921
2nd Dist. PENNA

a 3

Plaintiff's Exh. 10/25/34

LIST OF OTHER CONCERNS IN SAME BUSINESS.

The Old '76 Distilling Co.,	Cincinnati, Ohio.
The Frankfort Distillery, Inc.	Frankfort, Ky.
E.H. Taylor, Jr. & Sons,	Frankfort, Ky.
Jas. E. Pepper Distilling Co.,	Lexington, Ky.
Sunnybrook Distilling Co.,	Louisville, Ky.
Rock Springs Distilling Co.,	Owensboro, Ky.

a4

[redacted]

A. OVERHOLT & COMPANY.

PITTSBURGH, PA.

SPECIAL SCHEDULE - AMOUNTS OF SALES, COSTS AND EXPENSES, ETC. APPLIED TO ACCOUNT OF LIQUIDATION FOR YEAR 1920 - UNION TRUST CO. OF PGH., LIQUIDATING AGENT.

LIQUIDATION:			
Sales of Bonded Whiskey from Bonded Warehouses		-	$ 928,273.71
Inventory 1/1/20 -	$595,676.55		
Do. 12/31/20 -	498,748.49	-	96,928.04
GROSS LIQUIDATION		-	$ 831,345.67
COSTS CHARGED:			
Insurance,	$ 16,000.00		
Taxes,	3,000.00		
Salesmen's Sal.& Comm.	11,726.00		
Storage,	23,446.60		
U.S. Tax Paid,	9,857.70		
		64,030.30	
GENERAL EXPENSES:			
Distillery Labor, Expense and Maintenance,	46,791.27		
Salaries,	14,302.05		
Broad Park Office Exp.	1,809.80		
Office Rent & Misc.	3,039.02		
Advertising and Other Exp.	55,047.46		
		120,989.58	
			$ 185,019.88
			$ 646,325.79
Misc. Claim Adjustment,			1.84
NET AMOUNT LIQUIDATION		-	$ 646,327.63

The Partnership of A. Overholt & Co. consisted of A.W.Mellon, R.B. Mellon and Henry C. Frick and was created on December 30, 1918, for the purpose of liquidating the assets of A.Overholt & Co., a Pennsylvania corporation.

Mr. Frick died on December 4, 1919, and, under the laws of the State of Pennsylvania, Messrs. A.W. and R.B.Mellon were, as surviving partners, required to carry on the liquidation of the assets of the copartnership.

On February 1, 1921, Messrs. Mellon, as liquidating partners, transferred all of the assets, real, personal and mixed of the copartnership, to The Union Trust Company of Pittsburgh, as liquidating agent.

a5

(c) General class (use key letter designation) F.

(d) Main income producing business. Give specifically the information called f
also whether acting as principal or as agent, on commission. State if inactive

Storage of Whiskey - Bottling for
Sale of Purchased Whiskey from cor
same name - Partnership in Liqui

A personal service corporation must explain its business in sufficient detail to ju
If the character of the business is different from that carried on during the pr
nature of the change must be explained. Where necessary, the statement sho
which should be firmly attached to this return.

OTHER CONCERNS IN SAME BUSINESS.

Attach hereto a list of the names and addresses of five representative concern
of the country engaged in the same kind of business.

ORGANIZATION OR INCORPORATION.

6. Date of organization or incorporation December 30, 1

7. If incorporated, under the laws of what State?

8. Is the corporation a successor to or was it formed to take over or conduct part o

corporation? If so, state name and address of predecessor or other org
case, the financial, managerial, and contractual relationships existing between yours
ation

VALUATIONS OF CAPITAL STOCK.

9. What was the fair value of the total capital stock of the corporation as determi
if any, of the capital stock tax?

Date of that assessment

AFFILIATIONS WITH CORPORATIONS.

10. Does the corporation own directly or control through wholly affiliated bu
business over 50 per cent of the outstanding voting capital stock of another corpora

11. Is over 50 per cent of your voting capital stock owned by another corporation
tions that are affiliated?

12. Is over 50 per cent of your voting capital stock as well as over 50 per cent of
another corporation or of other corporations owned or controlled by the same indiv
the same individuals or partnerships?

SCHEDULE D—RE

1. Net income from Schedule A, Item 26 .....

2. Income not to be accounted for by members:
   (a) Interest on obligations of the United States issued b
   ber 1, 1917, Victory Liberty Loan 4¾% Notes a
   of United States' possessions? .....
   (b) Interest on obligations of States, Territories, and
   divisions thereof .....
   (c) Interest on Farm Loan Bonds issued under Federa
   Act .....
   (d) Dividends on stock of personal service corporati
   income earned during the period between January
   the beginning of present accounting period .....
   (e) Profits which are derived from the sale of vessels, a
   exempt under Section 28 of the Merchant Marine A
   (f) Other Items (to be detailed):

   (1) .....

   (2) .....

3. Charges against reserves for bad debts, contingencies, etc. (to

   (a) .....

   (b) .....

   (c) .....

4. Total of Items 1 to 3, inclusive .....

5. Total from Item 13 .....

6. Net profit for period as shown by books, before any adj
   made therein (Item 4 minus Item 5) .....

7. Surplus and undivided profits as shown by balance shee
   preceding taxable period .....

8. Other credits to surplus (to be detailed):

   (a) .....

   (b) .....

9. Total of Items 6 to 8, inclusive .....

10. Total from 16 .....

11. Surplus and undivided profits as shown by balance shee
    accounting period (Item 9 minus Item 10) .....

Attach hereto balance sheets as of the beginni
balance sheets should be prepared from the books a

ASSETS.

Cash (including cash in bank and on hand, certificates of depos
Trade accounts (before deducting reserves for losses).
Notes receivable from customers.
Other accounts and notes receivable (to be classified).
Inventories:
  Raw materials.
  Work in progress.
  Finished products.
  Supplies.
Investments:
  Bonds—
    U. S. bonds and obligations (each issue to be stated sep
    Exempt (municipal, State, etc.).
    Other.
  Stock of corporations—
    Foreign.
    Domestic.
Loans and advances:
  To members and employees.
  To others.
Deferred charges to future operations (to be detailed.)

*Reserve for

KIND OF BUSIN

1. By statement use key letters given below, identify the cor
more the general classes, and follow this by a special description
called for under each general class:
A—Agriculture and related industries, including fishing, lo
of such property. State the product or products. B—Minin
include the leasing of such property. State the product or pr
and also the material if not implied by the name of the prod
bridges, railroads, ships, etc., also equipping and installing sam
their manufacture. State nature of structures built, materials
tion—rail, water, local, etc. State the kind and special produc
(natural, coal or water); electric light or power (hydro or steam
phone; waterworks or power. E3—Storage—without trading o
yards, etc.) State product stored. E4—Leasing transportat
Trading in goods bought and not produced by the trading conc
retail, or commission, and the product handled. Sales with store
domestic, including hotels, restaurants, etc.; amusements; ot
State the service. H—Finance, including banking, real estat
classes (a) because of combining several of them with no predom

2. Concerns whose business involves activity falling in two
same product is concerned, should report business as identified
example, concerns in A or B which also transport and market t
still be identified with classes A or B; concerns in C (manufactur
supply in A or B and which also transport, sell, or install thei
identified with manufacturing; concerns in D may control or ow
or mainly in their constructive work; concerns in E1 or E2 ma
power; concerns in F may transport or store their own merch
with A, B or C.

3. Answers:
   (a) General class (use key letter designation) ..... F.
   (b) Main income producing business. Give specifically th
   also whether acting as principal or as agent, on commis

SCHEDULE "E" - BALANCE SHEETS.

A. OVERHOLT & COMPANY.
PITTSBURGH, PA.

ASSETS.		Dec.31,1920	Jan.1,1920.
Cash,	Overdraft	($ 7,039.13)	1,667.17
Bills Receivable,		2,665,600.00	1,915,000.00
Accts. Rec. & Tax,		358,033.98	360,008.88
Inventories,		867,220.27	900,395.52
Investments:			
Liberty Loan Bonds,		--- --	105,000.00
Miller Property,		6,817.81	6,817.81
		6,817.81	111,817.81
Property & Plant,		253,261.27	253,261.27
Expenses Paid in Advance,		8,438.01	10,324.80
		3,952,332.21	3,552,475.45

LIABILITIES		
Accounts Payable,	9,370.06	192,610.85
Reserves:		
Depreciation,	260,000.00	260,000.00
Capital Stock Tax & Other Taxes,	10,276.54	20,000.00
Inventory Depreciation 1919.		198,558.85
Liquidation,	646,327.63	-- --
Profit & Loss 1920.	145,052.23	3,672,685.61 -- --
NET WORTH PARTNERS FOR LIQUIDATION		
R.B. Mellon,	960,435.25	960,435.25
A.W. Mellon,	960,435.25	960,435.25
Estate of H.C.Frick,	960,435.25	960,435.25
	$ 3,952,332.21	$ 3,552,475.45

a 6

A. OVERHOLT & CO. - PITTSBURGH, PA.

SCHEDULE A-5 - GROSS INCOME FROM OPERATIONS OTHER THAN MANUFACTURING.

SALES:			
Empty Barrels,	-	$ 6,[illegible].51	
Bottling & Casing	-	320,[illegible].61	
Storage billed,	-	42,550.50	
			$369,[illegible].42

COSTS CHARGED TO SALES:		
Labor,	$ 12,859.41	
Revenue Stamps,	8,020.90	
Cases, Bottles, Corks, and other bottling supplies,	150,922.51	
Water & Other Expenses,	10,757.28	$ 182,560.60

Storage Labor & Expenses, [illegible]

[illegible] $ [illegible]

A. OVERHOLT & COMPANY, PITTSBURGH, PA.

SCHEDULE A-5 - TAXABLE INTEREST.

Interest on Daily Balances - Mellon Nat.Bank	-	$ 3,480.73

SCHEDULE A-13 - ORDINARY & NECESSARY EXPENSES.

Salaries,		$ 14,302.02
Broad Ford Office Expenses,		1,809.80
Office Rent, Incidentals, etc.		3,039.01
[illegible],		85.12
TOTAL	-	$ 19,235.95

SCHEDULE A-22 - SALE OF INVESTMENTS OR ASSETS.

Third Liberty Loan 4 1/4 Bonds

Purchase Price,	-	$ 105,000.00

Acquired 1918.

Sold to Mellon National Bank, Pittsburgh, Pa.- Jan. 21, 1920.

Sale Price (Includes all accrued interest)-		99,671.25
NET LOSS	-	$ 5,328.75

08

[redacted]

SCHEDULE A-14 - COMPENSATION OF MEMBERS OF PARTNERSHIP.

R.B. Mellen, Managing Partner, Part Time - $5,000.00 annually.

a9

N IS FOR
YEAR THE
WITH THE
TOR OF
REVENUE
DISTRICT
BEFORE
14, 1918
A PERIOD
THAN A
YEAR, THE
SHOULD BE
OR BEFORE
H DAY OF
RD MONTH
WING THE
OF SUCH
RIOD

PARTNERSHIP OR PERSONAL SERVICE CORPORATION RETURN OF INCOME

FOR CALENDAR YEAR 1920

Or for period beginning _____, 19__, and ending DEC 31 1920, 19__

If the return is made for a period other than the calendar year, fill in the blank space above showing the period covered by the return.

WEST OVERTON DISTILLING CO.

Scottdale, Pa.

23rd PENNSYLVANIA

REC'D - 14158
MAR 16 1921
23rd Dist. PENNA.

BUSINESS Distilling STATE WHETHER PARTNERSHIP OR CORPORATION Partnership

SCHEDULE A—INCOME TO BE ACCOUNTED FOR BY MEMBERS.

GROSS INCOME			
, less returns and allowances	47729 00		
of goods sold, exclusive of expenses, repairs, and other items called for separately from Schedule A2)	20127 92	27601 08	
me from services or from operations other than trading or manufacturing, less allowances (from Schedule A3)			
obligations of the United States issued since September 1, 1917 (except Victory Liberty Loan 3¾% Notes), and ance Corporation Bonds (from Schedule B, see Schedule A4)			
nterest from all other sources (not including interest referred to under Item 2, Schedule D) (from Schedule A5)		134 40	
et income earned by a partnership or personal service corporation during its accounting period (whether received			
from earnings of corporations taxable by the United States on their net incomes (including dividends on stock of personal service corporations declared out of profits earned prior to January 1, 1918) (from Schedule A9)			
on stock of foreign corporations not taxable by the United States on their net incomes (from Schedule A10)			
me from all other sources (not including any amount reported in Item 23 below) (from Schedule A11)			
TAL OF ITEMS 1 TO 11			27735 41
DEDUCTIONS			
and necessary expenses (except amounts reported in Item 1 above or called for separately below) (from Schedule		759 47	
tion of members (including shareholders of personal service corporation who drew salaries therefrom and salaries, ions, and other compensation in whatever form paid) (from Schedule A14)			
including labor, supplies, etc.) (from Schedule A15)			
from Schedule A16)			
cept Federal income and profits taxes, and taxes which are a credit under Section 222 or Section 238, and taxes against local benefits of a kind tending to increase the value of the property assessed)			
rtained to be worthless and charged off during accounting period (from Schedule A18)		759 17	
n, wear and tear (including obsolescence) (from Schedule A19)		1500 00	
(from Schedule A20)			
TAL OF ITEMS 13 TO 20			2 259 64
FERENCE BETWEEN ITEMS 12 AND 21			17 475 77
s on sales of capital assets and miscellaneous investments, including liquidating dividends (from Schedule A22)			
ained during accounting period and not compensated for by insurance or otherwise (from Schedule A23)			
ion of War Facilities (from Schedule A24). (Extend to last column resulting net total of items 22, 24, and 26)			
E FOR ACCOUNTING PERIOD TO BE ACCOUNTED FOR BY MEMBERS (TOTAL OF OR DIFFERENCE BETWEEN ITEMS ITEM 25)			17 475 77

SCHEDULE B—INTEREST ON LIBERTY BONDS, ETC.

Dates	June 15, December 15.	May 15, November 15.	June 15, December 15.	May 15, November 15.	June 15, December 15.	June 15, December 15.	April 15, October 15.		June 15, December 15.	April 15, October 1.
Amount of Interest	$	$	$	$	$	$	$	$	$	$

Total, Interest on Ass. Certificates as Shown Above (to be entered as Item 4, Schedule A, and distributed in column 5, Schedule C) $

Amount of Victory Liberty Loan 3¾% and 4¾% Notes originally subscribed for and still owned at the date of filing this return $

Amount of Fourth Liberty Loan 4¼% Bonds originally subscribed for and still owned at the date of filing this return $

SCHEDULE C—MEMBERS' SHARES OF INCOME, ETC.

[illegible] below the share of net income (whether distributed or not) of each member of the partnership or shareholder of the personal service corporation, and each member's share of the net profits upon which tax has been paid by the partnership or corporation as a trade or business, or as a partnership of the United States. (See page 1 of instructions, paragraphs 10 to 14, inclusive.) [illegible]

Name and address of each, as shown on this or preceding return	Interest in net profit of business, trade or partnership	Amount	Other income	Income and profits taxes paid to a foreign country or to a possession of the U. S.
Richard B. Mellon 500 - 5th Ave. Pittsburg, Pa.	1/3	[illegible]	596055	Profit
Andrew W. Mellon Woodland Road, Pittsburg, Pa.	1/3	[illegible]	596055	Profit
R. C. Frick Estate Pittsburg, Pa.	1/3	[illegible]	596054	Profit
Totals			1788164	

[illegible] Commission Expires
February 21, 1923

SCHEDULE D—RECONCILIATION OF NET INCOME AND ANALYSIS OF CHANGES IN SURPLUS.

me from Schedule A, Item 28	$ 17 881 64
not to be accounted for by members:	
terest on obligations of the United States issued before September 1, 1917, Liberty Loan 3½ % Notes and obligations in which States' possessions	
terest on obligations of States, Territories, and political subdivisions thereof	
terest on Farm Loan Bonds issued under Federal Farm Loan Act	
Dividends on stock of personal service corporations from net income earned during the period between January 1, 1918, and the beginning of present accounting period	
Profits which are derived from the sale of vessels, and which are exempt under Section 23 of the Merchant Marine Act of 1920	
Other Items (to be detailed):	
(1)	
(2)	
s against reserves for bad debts, contingencies, etc. (to be detailed):	
)	
)	
)	
of Items 1 to 3, inclusive	$
from Item 13	
profit for period as shown by books, before any adjustments are de therein (Item 4 minus Item 5)	$
us and undivided profits as shown by balance sheet at close of ceding taxable period	
r credits to surplus (to be detailed):	
of Items 6 to 8, inclusive	$
from 16	
lus and undivided profits as shown by balance sheet at close of ounting period (Item 9 minus Item 10)	$ 17 881 64

12. Unallowable deductions:	
(a) Donations, gratuities, and contributions	$
(b) Income and profits taxes paid to the United States, its possessions or a foreign country	
(c) Special improvement taxes tending to increase the value of the property assessed	
(d) Furniture and fixtures, additions, or betterments treated as expenses on the books	
(e) Replacements and renewals	
(f) Insurance premiums paid on the life of any officer or employee for the benefit of the corporation or business	
(g) Interest on indebtedness incurred or continued to purchase or carry securities (other than obligations of the United States issued after September 24, 1917), the interest upon which is wholly exempt from taxation	
(h) Additions to sinking fund reserve, and reserves for bad debts and other contingencies (to be detailed):	
(1)	
(2)	
(3)	
(i) Other unallowable deductions (to be detailed):	
(1)	
(2)	
(3)	
13. Total of Item 12	$
14. Dividends or withdrawals (state whether paid in cash, stock of the company, or other property):	
(a) Date paid ..... Character	$
(b) Date paid ..... Character	
(c) Date paid ..... Character	
(d) Date paid ..... Character	
15. Other debits to surplus (to be detailed):	
(a)	
(b)	
13. Total of Items 14 and 15	$

SCHEDULE E—BALANCE SHEETS.

tach hereto balance sheets as of the beginning and end of the taxable year (preferably in parallel columns), showing as nearly as practicable the details called for below: (These e sheets should be prepared from the books and should be in agreement therewith, or any differences should be reconciled.)

ASSETS.

cluding cash in bank and on hand, certificates of deposit, etc.).
ccounts (before deducting reserves for losses).
ceivable from customers.
ccounts and notes receivable (to be classified).
ies:
materials.
k in progress.
shed products.
plies.
ents:
ds—
U. S. bonds and obligations (each issue to be stated separately).
Exempt (municipal, State, etc.).
Other.
k of corporations—
Foreign.
Domestic.
nd advances:
members and employees.
thers.
d charges to future operations (to be detailed.)

ASSETS (Continued).

Fixed assets:
Land.
Buildings.
Machinery.
Tools and minor equipment.
Delivery equipment.
Office furniture.
Other (state character).
TOTAL.
Less reserves for depreciation and depletion (show separately amount applicable to each fixed asset).*
NET VALUE.
Patents, good will, and other intangible assets:
Paid for in cash or other tangible property.
Paid for in stock (other than stock dividends) or in shares of a partnership.
Created by stock dividend or otherwise.
Discount:
On bonds.
On stock.
TOTAL.

LIABILITIES.

Loans and notes payable:
To members.
To others (including bank loans).

Accounts payable:
Trade.
Other.

Accrued expenses and reserves, the charges creating which are allowable deductions from income (to be detailed).

Reserves, the charges creating which are not allowable deductions from income (to be detailed):
Reserves for losses on notes and accounts receivable.
Other reserves (to be detailed).

Capital stock outstanding (to be classified), or all partners' capital and current accounts (to be detailed).

Surplus and undivided profits.

TOTAL.

*Reserves for depreciation may be deducted from the respective asset accounts or itemized on the liability side of the balance sheet.

QUESTIONS.

KIND OF BUSINESS.

y means of the key letters given below, identify the corporation's main income producing activity with e general classes, and follow this by a special description of the business, sufficient to give the information r under each general class:
griculture and related industries, including fishing, logging, ice harvesting, etc., including the leasing property. State the product or products. B—Mining and quarrying, including gas and oil wells. the leasing of such property. State the product or products. C—Manufacturing. State the product the material if not implied by the name of the product. D—Construction—excavations, buildings, railroads, ships, etc., also equipping and installing same with systems, devices, or machinery, without nufacture. State nature of structures built, materials used or kind of installations. E1—Transportati, water, local, etc. State the kind and special product transported, if any. E2—Public utilities—gas , coal or water); electric light or power (hydro or steam generated); heating (steam or hot water); teleaterworks or power. E3—Storage—without trading or profit from sales (elevator, warehouses, stock- e.) State product stored. E4—Leasing transportation or utilities. State kind of property. F— in goods bought and not produced by the trading concern. State manner of trade, whether wholesale, commission, and the product handled. Sales with storage with profit primarily from sales. G—Service— , including hotels, restaurants, etc.; amusements; other professional, personal, or technical service. service. H—Finance, including banking, real estate, insurance. I—Concerns not falling in above a) because of combining several of them with no predominant business, or (b) for other reasons.
oncerns whose business involves activity falling in two or more of the above general classes, where the ount is concerned, should report business as identified with but one of the above general classes, for-

13. If the answer to questions 10, 11, and 12, or any of them, is "yes," the following information should be furnished as at the beginning of the accounting period, indicating any substantial changes during such period:

NAME OF SHAREHOLDER.	(Name of corporation) (Address)		(Name of corporation) (Address)	
	Shares held.	Percentage of stockholdings.	Shares held.	Percentage of stockholdings.

service. H—Finance, including banking, real estate, insurance. I—Concerns not falling in above (a) because of combining several of them with no predominant business, or (b) for other reasons. Concerns whose business involves activity falling in two or more of the above general classes, where the product is concerned, should report business as identified with but one of the above general classes, for e, concerns in A or B which also transport and market their own product exclusively or mainly, should identified with classes A or B; concerns in C (manufacturing) which own or control their source of material in A or B and which also transport, sell, or install their own product exclusively or mainly, should be ed with manufacturing; concerns in D may control or own source of supply of materials used exclusively ly in their constructive work; concerns in E1 or E2 may own or control the source of their material or concerns in F may transport or store their own merchandise, but its production would identify them B or C.

Answers:

General class (use key letter designation) F

Main income producing business. Give specifically the information called for under each key letter, also whether acting as principal or as agent, on commission. State if inactive or in liquidation.

In Liquidation

personal service corporation must explain its business in sufficient detail to justify its claim to be classed If the character of the business is different from that carried on during the preceding accounting period, re of the change must be explained. Where necessary, the statement should be made on a separate hich should be firmly attached to this return.

OTHER CONCERNS IN SAME BUSINESS.

ttach hereto a list of the names and addresses of five representative concerns in your locality or section untry engaged in the same kind of business.

ORGANIZATION OR INCORPORATION.

ate of organization or incorporation Dec. 31 - 1918

Incorporated, under the laws of what State?

the corporation a successor to or was it formed to take over or conduct part of the business of another

ion? If so, state name and address of predecessor or other organization, and in the letter financial, managerial, and contractual relationships existing between yourselves and the other organi-

Kentucky Distilling Co.

VALUATIONS OF CAPITAL STOCK.

hat was the fair value of the total capital stock of the corporation as determined in the last assessment, f the capital stock tax?

st assessment

AFFILIATIONS WITH CORPORATIONS.

es the corporation own directly or control through closely affiliated interests or by a nominee or over 50 per cent of the outstanding voting capital stock of another corporation?

over 50 per cent of your voting capital stock owned by another corporation or by two or more corpora- are affiliated?

over 50 per cent of your voting capital stock as well as over 50 per cent of the voting capital stock of orporation or of other corporations owned or controlled by the same individual or partnership or by individuals or partnerships?

Total				
Shares outstanding beginning of year				
Shares outstanding end of year				

(a) Separate statements should be submitted for common and preferred stock, indicating (1) whether it had full voting privileges during the entire accounting period; (2) whether the voting privileges were suspended; (3) whether these voting privileges were exercised during the accounting period; (4) the conditions by which these voting privileges may be suspended or acquired.

(b) State the dividend privileges of the respective classes of stock; the rate of dividends paid during the accounting period; the date and rate of last dividend payment; and whether, and under what conditions, the preferred stock participates in the earnings above the fixed dividend rate.

(c) State if the preferred stock has preference in respect to distribution of assets, dividends or otherwise.

(d) Show separately the number of shares of each class held by the corporation, [illegible] except where impracticable by reason of the large number of stockholders. Under such conditions show only those holding stock in two or more of the affiliated corporations.

(e) Indicate whether any of the stock was held during the accounting period [illegible] expressed or implied, and state whether such [illegible]

(f) Indicate whether any stock is held by employees or officers [illegible] and the conditions, either expressed or implied, under which such stock was [illegible] accounting period. Also submit the following information in respect to such [illegible] acquisition: (1) Par value of stock; (2) book value of stock; (3) market value of stock; (4) [illegible] amount paid for such stock; (5) method of payment for such stock.

(g) If the stock in any one or more of the corporations listed [illegible] state the relations existing between the [illegible] chase or otherwise.

(h) Explain fully the nature and extent of any [illegible] an artificial distribution of profits or assets to any one of [illegible] not income or invested capital.

Foreign corporations may not be included in consolidations.

GOVERNMENT CONTRACTS.

14. Have any adjustments during the accounting period been made on account of contracts or subcontracts with the Government or its agencies or from any Government [illegible] directly or indirectly, through the operations of a claim based or otherwise? (Answer "Yes" or "No.") If so, state the amounts involved, $; whether or not such [illegible] return; and, if not, was an amended return accounting for the adjustment [illegible] for accounting period in which the contract was [illegible] particulars of the contract, date entered into, date the work ceased under said contract or subcontract, and the amount and nature of the adjustment.

AMORTIZATION.

15. Has amortization been claimed? (Answer "Yes" or "No.") If so, for what year

Amount, $

PREPARATION OF RETURN.

16. Was anyone employed especially to prepare or advise in the preparation of this return? (Answer "Yes" or "No.") No If so, give name and address and state to what extent such assistance or advice was received

LIST OF ATTACHED SCHEDULES.

17. Attach a list of schedules accompanying this return, giving for each a brief title and a schedule number. (See opening paragraph on page 3 of instructions.)

AMENDED RETURNS.

An amended return must be plainly marked "Amended" across the face of return.

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AUG 1922

AUG - 9 1922

IF RETURN IS FOR CALENDAR YEAR 1920 FILE IT WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1921

IF FOR A PERIOD OTHER THAN A CALENDAR YEAR, THE RETURN SHOULD BE FILED ON OR BEFORE THE 15TH DAY OF THE THIRD MONTH FOLLOWING THE CLOSE OF SUCH PERIOD

NO TAX

Or fo

If the ret
made for a
other than
calendar
year, the
period
covered
should
be stated

KIND OF BUSINESS

G

1. Gross sales, less returns and allowances
2. Less cost of goods sold, exclusive of exp
below (from Schedule A2)
3. Gross income from services or from opera
4. Interest on obligations of the United St
War Finance Corporation Bonds (from
5. Taxable interest from all other sources (
6. Rentals
7. Royalties
8. Share of net income earned by a partners
or not)
9. Dividends from earnings of corporations
personal service corporations declared o
10. Dividends on stock of foreign corporation
11. Gross income from all other sources (not i
12. TOTAL OF ITEMS 1 TO 11
13. Ordinary and necessary expenses (except
A13)
14. Compensation of members (including shar
commissions, and other compensation i
15. Repairs (including labor, supplies, etc.) (
16. Interest (from Schedule A16)
17. Taxes (except Federal income and profits
assessed against local benefits of a kind
18. Debts ascertained to be worthless and cha
19. Exhaustion, wear and tear (including obs
20. Depletion (from Schedule A20)
21. TOTAL OF ITEMS 13 TO 20
22. DIFFERENCE BETWEEN ITEMS 12 A
23. Profit or loss on sales of capital assets and m
24. Losses sustained during accounting period
25. Amortization of War Facilities (from Sched
26. NET INCOME FOR ACCOUNTING PERIOD TO
22 AND ITEM 25)

OBLIGATIONS	First Liberty Loan Converted 4% Bonds of 1932-47.	Second L Loan 4% of 192
INTEREST DATES	June 15. December 15.	May Novem

Obligations	First Liberty Loan Converted 4% Bonds of 1932-47.	Second Liberty Loan 4% Bonds of 1927-42.	[illegible]
Interest Dates	June 15. December 15.	May 15. November 15.	
Amount of interest	$	$	$

Total Interest on All Obligations as Shown

State the amount of Victory Liberty Loan 3¾% and 4¾%

State the amount of Fourth Liberty Loan 4¼% Bonds on

Enter below the share of net income (whether distr

any income and profits taxes paid by the partnership or c

If the distributable income in the net income are

Name and address of each person (or partnership)

1. Name and address of each, as shown on the fiduciary tax re

(a) Richard B. Mellon

(b) 6500 - 5th Ave., Pittsburg,

(c)

(d) Andrew W. Mellon

(e) Woodland Road, Pittsburg

(f)

(g) H. C. Frick Estate

(h) Pittsburg, Pa.

(i) Totals

The undersigned, being severally duly sworn, each

and is to the best of his knowledge and belief a true and

issued under authority thereof.

Sworn to and subscribed before me this

Seal of officer, if

making affidavit.

7/24/22 My Commission E

February 21, 1

SCHEDULE D—RECONCIL

1. Net income from Schedule A, Item 28 .....

2. Income not to be accounted for by members:
   (a) Interest on obligations of the United States issued before Septem[illegible] ber 1, 1917, Liberty Bonds, Liberty Loan 3½ % Notes and obligation[illegible] of United States [illegible]
   (b) Interest on obligations of States, Territories, and political sub[illegible] divisions thereof .....
   (c) Interest on Farm Loan Bonds issued under Federal Farm Loa[illegible] Act .....
   (d) Dividends on stock of personal service corporations from n[illegible] income earned during the period between January 1, 1918, an[illegible] the beginning of present accounting period .....
   (e) Profits which are derived from the sale of vessels, and which ar[illegible] exempt under Section 23 of the Merchant Marine Act of 1920 ....
   (f) Other Items (to be detailed):

      (1) .....

      (2) .....

3. Charges against reserves for bad debts, contingencies, etc. (to be detailed)

   (a) .....

   (b) .....

   (c) .....

4. Total of Items 1 to 3, inclusive .....

5. Total from Item 13 .....
6. Net profit for period as shown by books, before any adjustments a[illegible] made therein (Item 4 minus Item 5) .....
7. Surplus and undivided profits as shown by balance sheet at close [illegible] preceding taxable period .....

8. Other credits to surplus (to be detailed):

   (a) .....

   (b) .....

9. Total of Items 6 to 8, inclusive .....

10. Total from 16 .....
11. Surplus and undivided profits as shown by balance sheet at close [illegible] accounting period (Item 9 minus Item 10) .....

Attach hereto balance sheets as of the beginning and en[illegible] balance sheets should be prepared from the books and should

ASSETS.

Cash (including cash in bank and on hand, certificates of deposit, etc.).
Trade accounts (before deducting reserves for losses).
Notes receivable from customers.
Other accounts and notes receivable (to be classified).
Inventories:
- Raw materials.
- Work in progress.
- Finished products.
- Supplies.

Investments:
- Bonds—
  - U. S. bonds and obligations (each issue to be stated separately).
  - Exempt (municipal, State, etc.).
  - Other.
- Stock of corporations—
  - Foreign.
  - Domestic.

Loans and advances:
- To members and employees.
- To others.

Deferred charges to future operations (to be detailed.)

*Reserves for depreciation

KIND OF BUSINESS.

1. By means of the key letters given below, identify the corporation's n[illegible] one of the general classes, and follow this by a special description of the busin[illegible] called for under each general class:

A—Agriculture and related industries, including fishing, logging, ice ha[illegible] of such property. State the product or products. B—Mining and qua[illegible] Include the leasing of such property. State the product or products. C—[illegible] and also the material if not implied by the name of the product. D—C[illegible] bridges, railroads, ships, etc., also equipping and installing same with syst[illegible] their manufacture. State nature of structures built, materials used or kin[illegible] tion—rail, water, local, etc. State the kind and special product transport[illegible] (natural, coal or water); electric light or power (hydro or steam generated) [illegible] phone; waterworks or power. E1—Storage—without trading or profit fro[illegible] yards, etc.) State product stored. E4—Leasing transportation or util[illegible] Trading in goods bought and not produced by the trading concern. State [illegible] retail, or commission, and the product handled. Sales with storage with pro[illegible] domestic, including hotels, restaurants, etc.; amusements; other professi[illegible] State the service. H—Finance, including banking, real estate, insurance [illegible] classes (a) because of combining several of them with no predominant busi[illegible]

2. Concerns whose business involves activity falling in two or more of [illegible] *same product* is concerned, should report business as identified with but [illegible] example, concerns in A or B which also transport and market their own p[illegible] still be identified with classes A or B; concerns in C (manufacturing) which [illegible] supply in A or B and which also transport, sell, or install their own prod[illegible] identified with manufacturing; concerns in D may control or own source of [illegible] or mainly in their constructive work; concerns in E1 or E2 may own or c[illegible] power; concerns in F may transport or store their own merchandise, but [illegible] with A, B or C.

supply in A or B and which also transport, sell, or install their ow
identified with manufacturing; concerns in D may control or own s
or mainly in their constructive work; concerns in E1 or E2 may o
power; concerns in F may transport or store their own merchandi
with A, B or C.

3. Answers:

(a) General class (use key letter designation).....

(b) Main income producing business. Give specifically the in
also whether acting as principal or as agent, on commission.

.....

.....

.....

4. A personal service corporation must explain its business in su
as such. If the character of the business is different from that carrie
the nature of the change must be explained. Where necessary, t
sheet, which should be firmly attached to this return.

OTHER CONCERNS IN SAME

5. Attach hereto a list of the names and addresses of five repr
of the country engaged in the same kind of business.

ORGANIZATION OR INCORP

6. Date of organization or incorporation.....

7. If incorporated, under the laws of what State?.....

8. Is the corporation a successor to or was it formed to take ove

corporation?..... If so, state name and address of prede
case, the financial, managerial, and contractual relationships existin

ration .....

.....

.....

VALUATIONS OF CAPITAL

9. What was the fair value of the total capital stock of the corpo

if any, of the capital stock tax?.....

Date of that assessment.....

AFFILIATIONS WITH CORPO

10. Does the corporation own directly or control through clos

nominees over 50 per cent of the outstanding voting capital stock o

11. Is over 50 per cent of your voting capital stock owned by an

tions that are affiliated?.....

12. Is over 50 per cent of your voting capital stock as well as o
another corporation or of other corporations owned or controlled b

the same individuals or partnerships?.....

[redacted]

Schedule — Balance Sheets.

Jan. 1. 1920 Assets	Jan. 1. 1920 Liabilities		Dec. 31. 1920 Assets	Dec. 31. 1920 Liabilities
	353 11	Bank	196587 60	
4 18		Accounts Receivable	149 50	
14860 77		Inventories - Supplies	13764 53	
90965 83		" Raw Materials	63650 27	
10000 00		Investments - Liberty Bonds	7414 80	
		Deferred Charges		
1509 38		Accrued Taxes	1017 94	
365 28		Fuel	673 09	
3209 36		Unexpired Insurance	3068 21	
58 69		License		
22 50		Water Rent - Hydrants	22 50	
251 62		Jug Sales		
50000 00		Real Estate Insured Fire 50000		
		Less 3% Depreciation 1500	48500 00	
	56964 88	Surplus - H. C. Speer		56964 88
	56964 88	" - A. H. Mellon		56964 88
	56964 86	" - R. B. Mellon		[illegible]
		Liquidation		[illegible]
		Profit & Loss		17311 64
171247 73	171247 73		327433 64	327433 64

B3

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PAGE

Testimony of Dewalt J. Hicks.

Thereupon, Dewalt J. Hicks was called as a witness on behalf of the plaintiffs and, having been first duly sworn, was examined and testified in substance as follows:

Direct Examination:

By Mr. Booth:

My full name is Dewalt J. Hicks. I live on Douglas Avenue in Pittsburgh, and was employed by the corporations known as A. Overholt & Company and West Overton Distilling Company from 1907 to 1925. I was the treasurer of A. Overholt & Company, and I am familiar with its affairs and its businesses. I was employed by the partnership after it took over the assets of the company, and after the death of Mr. Frick my employment was continued by the surviving partners. I continued in the same employment after the Union Trust Company of Pittsburgh was appointed liquidating agent. I really hadn't any connection with the West Overton Distilling Company except to oversee what was going on. That plant was attended to by Mr. Bosworth. All things that came into my office were approved before anything was done by either the A. Overholt & Company or West Overton Distilling Company. I approved everything that was done at the West Overton Distilling Company. Mr. R. B. Mellon had charge of the business of the two distilleries and everything that I approved was done with his direction. In December, 1916, we stopped the distillation of whiskey. After 1916 we never applied

for a distiller's license or permit although we had the necessary licenses and permits up to that time. After the passage of the War-Time Prohibition Act and the National Prohibition Act, we applied to the Federal Government for wholesale and retail licenses but not for a distiller's permit. All of my testimony applies to both the A. Overholt plant and the West Overton plant. No whiskey was manufactured after the formation of the partnership. After the partnership was formed, we sold whiskey on certificate. Whiskey was withdrawn through the Federal Government; the distiller had to make application, because the Government wouldn't recognize anybody but a distiller; we would make application for withdrawal, and then withdraw it and bottle it for the owner of the certificate.

Q. Did you do any bottling except of the whiskey that was stored in the warehouse?

A. No.

Q. Was that carried on all through the years from 1919 to 1925?

Mr. Eustace:

That is objected to, as calling for a conclusion of the witness, and not the best evidence; leading, and suggestive.

The Court:

I will overrule that objection, and note an exception.

A. Yes.

Q. Was there a profit made out of bottling?

A. There was a profit made on bottling.

Mr. Eustace:

That is objected to as leading and suggestive; and I make a motion to strike the answer.

The Court:

It generally gets us nowhere as it stands, of course; but it may lead to something more specific later. The objection is overruled, and exception noted.

A. We had profits for bottling.

We also charged for storage and for the sale of empty barrels.

Q. After the formation of the partnership, what if anything was done leading to the termination or winding up of the businesses?

A. Selling on certificate; we sold on certificate up until '21, all during 1920.

Q. After that what did you do?

A. Decided—the partnership decided not to sell anything unless they could sell the balance of the stock to some one person or concern.

Mr. Eustace:

Move to strike the answer to the last question, for the reason it does not appear it was confined to the year 1920, which is the only year in issue in this case.

The Court:

We deny the motion, and note an exception.

Q. In 1921—or until the final sale in 1925, had you any negotiations with anyone as to the sale of the entire plant?

Mr. Eustace:

That is objected to, as irrelevant and immaterial.

The Court:

The objection is overruled, and an exception.

A. We had several inquiries. Mr. Rosensteel—I think that was in 1922, but he made us no real offer; and Mr. Pell—

Q. Mr. Pell of New York, a broker, finally made the sale?

A. Yes.

Q. And prior to the final sale had he introduced you to any other purchaser?

A. Yes, he had.

Mr. Eustace:

If the Court please, may the record show that defendant objects to all such testimony as being offered by counsel from this witness.

The Court:

We will give you a general exception such as that, and note it specifically later in case it should be necessary.

Q. Was there any distribution of profits or of any money realized from the sale of whiskey made to the surviving partners or the estate of the deceased partner up until the year 1925?

A. No, sir.

Mr. Eustace:

This is objected to, as leading and suggestive, and calls for a conclusion of the witness, and not

the best evidence, and incompetent, irrelevant and immaterial.

Mr. Booth:

If the Court please, it is a pure question of fact as to whether or not they made any distribution to the partners, or the surviving partners.

The Court:

The question is as to the ability of the witness to answer. You have shown, I believe—or at least it is to be inferred from his testimony that he had the actual superintendence of this matter, under the direction of the partners. Am I correct in that?

Mr. Booth:

I will ask him another question.

Q. Mr. Hicks, who signed the checks making all disbursements of A. Overholt & Company?

A. What do you mean—as a partnership? I did.

Q. After the death of Mr. Frick, who signed them?

A. I did.

Q. Who signed them after the appointment of the liquidating agent?

A. The Union Trust Company.

Q. Who approved them before the Union Trust Company signed them?

A. I did; countersignature. I countersigned the checks.

Q. Do you know whether any distribution was

made to the surviving partners or the estate of the deceased partner?

A. Yes, sir.

Mr. Booth:

I renew the question.

The Court:

The objection is overruled, and exception noted.

Thereupon, the sixth immediately preceding question and answer were read as follows:

Q. Was there any distribution of profits or of any money realized from the sale of whiskey made to the surviving partners or the estate of the deceased partner up until the year 1925?

A. No, sir.

I know that during 1920 the A. Overholt & Company had debts. The partnerships or firms of A. Overholt & Company and West Overton Distilling Company kept books of account during the year 1920, and if there was any indebtedness of those two firms, such indebtedness would be recorded upon the books of account.

Q. Mr. Hicks, in 1920 were there any discussions in Washington by Government officials relating to the whiskey business—

A. Yes, sir.

Q. —which tended to make the business hazardous?

Mr. Eustace:

Just a moment.

The Court:

I wonder if you need any proof as to the general situation which existed at that time. I don't know whether you want to prove anything more than the general existing condition of affairs in connection with the business or not, but if you do, let us know what it is.

Mr. Booth:

I will withdraw the "which tended to make the business hazardous," and change it to "which might result in the expenditure of a large amount of money by distillers."

Mr. Eustace:

Objection.

Mr. Booth:

If the Court please, I offer to prove by this witness that in 1920 the Government at Washington was discussing three things: First, the assessment and imposition of a floor tax upon all whiskey then in storage in the United States; secondly, the movement of all whiskey then in storage to several large warehouses to be designated "concentration warehouses," and with that removal the assessment and imposition immediately of the $2.20 per gallon tax; thirdly, the possibility that all whiskey would have to be bottled, in order to stop or remove the possibility of theft from the barrels, and the assessment and immediate collection of the $2.20 per gallon tax with that bottling; that A. Overholt & Company and West Overton

Distilling Company had approximately 50,000 barrels of whiskey which would average thirty gallons per barrel, and that any one of such proposals if adopted would cost A. Overholt & Company three million dollars in tax immediately.

Mr. Eustace:

Objection is made to the offer, for the reason it is incompetent, irrelevant and immaterial, and does not tend to prove or disprove any of the issues involved in these cases; and for the further reason that the testimony or the proof offered is too general, and does not establish or tend to establish the question of whether or not there were debts and contingent liabilities, or the amounts of them.

The Court:

Now, you are simply offering this, I take it, Mr. Booth, for the purpose of showing a reason for liquidation?

Mr. Booth:

No. If the Court please, the offer is made for the purpose of showing there were large contingent liabilities in 1920 for these partnerships, and that under the law of the State of Pennsylvania surviving partners as liquidating trustees have no authority to make distribution to either themselves or the estate of a deceased partner until all the debts and liabilities of the former partnership are disposed of, satisfied or settled; and that such contingent liabilities prevented distribution of any of

the assets of these former partnerships to the partners, and that therefore no distribution could be made until these contingencies had been removed.

Mr. Eustace:

Further objection is made, that the offer of proof is not a tender of an issue of fact but a tender of an issue of law, and has no bearing whatsoever upon the right of the Government to levy and collect a tax for the year 1920.

The Court:

Well, the offer is rather indefinite, Mr. Booth. It does not show, in the first place, by whom such declarations were made, whether they were made to the plaintiffs or their partnership, and would be more or less intangible in any event, it seems to me. And I am not so sure that it is even necessary to prove that general situation; part of the condition is a matter for judicial notice—of which the Court might take judicial notice, I should say —and as to the law of Pennsylvania, of course you are not required to prove that in this court.

Mr. Frazer:

If the Court please, this offer is made for the purpose of showing the reason that no distribution was made earlier.

The Court:

That is what I inferred.

Mr. Frazer:

The liquidation started really in 1918, Mr. Frick died in 1919, and the liquidation continued,

and it was not until 1925 that the great bulk of the assets were sold and the distribution made; while some of the goods were sold earlier, no money realized from the sale of these assets was distributed, and this is the reason why it was not done.

The Court:

Well, isn't the fact more important than the reason?

Mr. Frazer:

That is perhaps correct. I was trying to explain to your Honor just the situation. In other words, we don't want the Government to be in position to say that we unreasonably withheld distribution of this property to the partners at any time, although as your Honor said I don't know whether it has a final bearing on the decision in this case.

Mr. Eustace:

Just in that connection, I might suggest to the Court that under the Federal Statute the income of a partnership is taxable to the individual partners, whether distributed or not; so that it is wholly immaterial, so far as the consideration of these issues is concerned, whether or not there was any distribution.

The Court:

Well, the effect of these statutes is, of course, largely a legal matter for determination at an-

other time. The main thing is to get the basis of facts upon which the legal matter is to be determined; I don't know. You may proceed, if you want to pursue it, and make it a little more specific. It is a matter known, I think, that is, a matter of common knowledge, and was a matter that was subsequently done, that is, the transfer to various warehouses.

Q. (Question read as amended, as follows: Mr. Hicks, in 1920 were there any discussions in Washington by Government officials relating to the whiskey business which might result in the expenditures of a large amount of money by distillers?)

The Court:

That is altogether too indefinite, Mr. Booth. You had better at least show it came from the head of the Internal Revenue Bureau, or the head of the Department. It might be the chief clerk in the office, or might be in the Attorney General's Office, or something of that kind; it might be a Government official, but his discussion would not have very much weight on the subject.

Mr. Booth:

The original question was whether or not there was any discussion, and he answered that yes.

The Court:

The objection is overruled to that extent, answer the question yes or no.

Mr. Eustace:

May I have an exception, please?

The Court:

Yes.

A. Yes.

Q. Was such discussion common knowledge among the men engaged in the whiskey business?

A. Yes.

Mr. Eustace:

Same objection.

The Court:

I think that will have to be sustained. An exception.

Q. Mr. Hicks, how much whiskey was there on hand in 1920?

Mr. Eustace:

That is objected to, as not the best evidence.

The Court:

It isn't the best evidence; but isn't it known, and checked up in that connection? It all has been, and there is no use taking up time with a mere matter concerning which there is no real dispute. No doubt you could get the books here, but it would simply take our time.

Mr. Eustace:

The books would establish the definite figure for the record, so that there would be no quibbling about any amounts or variations.

Mr. Booth:

The books are not the best evidence, they are only evidence of the facts, and a man who has knowledge can testify as easily as from the books.

The Court:

You could bring them here and show they were correctly kept, and a memorandum from the books, and so forth. That of course would be the best evidence. However, if this witness is able to state definitely, we will allow him to answer the question subject to the objection.

A. It would be pretty hard to state just exactly the amount, but I would say around sixty thousand in the two distilleries.

Q. Barrels?

A. Yes.

Mr. Eustace:

I move to strike the answer of the witness, because the question is not confined to a specific time.

The Court:

Yes, he did fix a specific time in his question. This is only a general matter. I will overrule the objection, and note an exception.

Cross Examination:

By Mr. Zeutzius:

The liquidation of the two businesses started with the formation of the partnership in 1918.

Q. Was the partnership formed for the purpose of liquidating the two businesses theretofore carried on by the two corporations?

A. Yes, sir.

Q. And for that particular purpose?

A. Yes, sir.

Q. Upon the death of Mr. Frick was there any change of policy with respect to liquidation?

A. No, sir.

Q. Was the same type of business and the same procedure continued as before, with the same end in view? Is that correct?

A. Yes, sir.

I was the treasurer of just the A. Overholt & Company during 1919 and 1920. With respect to the bank account of A. Overholt & Company in 1919 when the partnership was organized I signed all checks for all disbursements.

Q. That included any distribution to the partners?

A. There wasn't any distribution at all.

Q. Now, in what name was the bank account carried?

A. A. Overholt & Company.

Q. And by yourself as treasurer?

A. Yes, sir.

Q. Was any mention made of a partnership on the bank account or on the checks?

A. I don't think so.

Q. After the death of Mr. Frick, in December, 1919, was there any change made in the manner of carrying that bank account?

A. No, sir.

Q. Was the term "liquidating trustees" or "liquidating agents", or anything else, included on the bank account or on your checks of disbursement prior to the appointment of the liquidating agent?

A. "A. Overholt & Company".

Q. Just as it had been before the death of Mr. Frick. Is that correct?

A. Yes, sir.

Q. The businesses were carried on as before in the same offices?

A. Yes, sir.

Q. As prior to the death of Mr. Frick?

A. Yes, sir.

Q. Were there any changes made that you can remember, to indicate that the partnership no longer existed after the death of Mr. Frick and up to the time of the appointment of a liquidating trustee in 1921?

A. Will you ask that question again?

A. Nothing except that we were in liquidation, trying to dispose of our property.

Q. Did that appear by any external sign?

A. No.

What I just stated applies to the West Overton Distilling Company which was handled by Mr. Bosworth who is in court. I got my instructions as treasurer of the partnerships from R. B. Mellon during 1919 and 1920. Distilling operations, that is, manufacture, ceased in 1916. In 1917 and 1920 we didn't manufacture any. There was no difference in the operations as carried on in 1917, 1918, 1919 and 1920, except the bottling end of it. The books were kept under my direction by Mr. Wood of the A. Overholt & Company.

Re-direct Examination:

By Mr. Booth:

Q. Mr. Hicks, in 1917 and 1918, and up until July 1, 1919, you had free sales of whiskey?

Mr. Eustace:

I object, your Honor, as not coming within the purview of the cross examination.

Mr. Booth:

If the Court please, in cross examination the question was asked whether the business was the same in 1917 and '18 as in 1920.

The Court:

Go ahead.

Q. (Question read). In other words, your sales of whiskey were not restricted?

A. No, they were not.

Q. In 1920 they were restricted?

A. Yes, they were.

Q. Could you have started the manufacture of whiskey at any time during 1917 and 1918, if you had desired to do so?

A. Yes, sir.

Q. You were the man that said when distilling operations would begin and said when they would quit, were you not?

A. Yes, sir.

Q. When did you receive instructions, if ever, from the partners to do no more distilling?

A. December, 1916.

Q. When, if ever, did you receive instructions from the partners that you were to proceed to sell the assets as fast as possible and to find a purchaser for the entire plant, and to see to the winding up of the affairs of the partnerships?

A. Well, as far back as 1917, fall of '17.

Testimony of William A. Seifert.

Thereupon, William A. Seifert, was called as a witness on behalf of the plaintiffs and, having been first duly sworn, was examined and testified as follows:

Direct Examination:

By Mr. Booth:

Q. Mr. Seifert, you are a practicing attorney?

A. Yes, sir.

Q. Admitted to practice in the bars of what courts?

A. Federal Courts and the State Courts.

Q. Supreme Court of the United States?

A. Yes, sir.

Q. How long have you been a practicing attorney?

A. Quite a long while; I think, going back to 1903.

Q. Have you in the course of your practice come in contact with the Bureau of Industrial Alcohol, Bureau of Prohibition, and Treasury Department, and the Office of the Attorney General of the United States?

A. From time to time; occasionally.

Q. Were you in 1920 attorney for the liquidating trustees and of Messrs. A. W. and R. B. Mellon, in conjunction with the A. Overholt & Company and West Overton Distilling Company?

Mr. Eustace:

That is objected to.

Mr. Booth:

I will withdraw the "liquidating trustees."

Q. (Question read, as amended, as follows: Were you in 1920 attorney for Messrs. A. W. and R. B. Mellon in conjunction with the A. Overholt & Company and West Overton Distilling Company?)

A. Mr. James H. Beal, former partner of Reed, Smith, Shaw and Beal, and myself were counsel for liquidating trustees of A. Overholt & Company and the West Overton Distilling Company during the year 1920.

Mr. Eustace:

I move to strike the answer, as not responsive to the question.

The Court:

Well, it brings in that "liquidating trustees" part; but I think I will refuse the motion and note you an exception.

Q. In connection with your duties were you during the year 1920 in Washington at numerous times?

A. Quite frequently.

Q. When there did you hear any rumors, definite or otherwise, in regard to certain proposed policies

which the Government might adopt in regard to imposition of a floor tax on whiskey, in regard to the requiring the removal of all whiskey to concentration warehouses, and in regard to requiring all whiskey to be bottled immediately?

Mr. Eustace:

Objected to, as argumentative; as incompetent, irrelevant and immaterial; and calls for a conclusion of the witness; and too general.

Mr. Booth:

If the Court please, that question was "Did you hear such rumors, definite or otherwise?" If he says no, it is over; if he says yes, then I can follow along and develop what they were and how definite they were, and the Court can then determine whether or not they are material.

The Court:

It is going out a little wider than it seems to me there is any necessity for going. That is capable of a direct declaration of reasons, of course, on the part of the parties. I will allow this question to be answered first, however, and note you an exception.

A. I did.

Q. Did you as attorney for Messrs. A. W. and R. B. Mellon advise them or their associate in regard to the distribution of profits or of the profits from the sale of whiskey of the two former partnerships, A. Overholt & Company and West Overton Distilling Company?

Mr. Eustace:

That is objected to, as irrelevant and immaterial, and not binding on the defendant.

The Court:

The objection is overruled, and exception noted.

A. As counsel with Mr. James H. Beal, we advised Mr. R. B. Mellon, who was the managing partner of A. Overholt & Company, partnership—managing partner of the surviving partners, A. W. Mellon and R. B. Mellon, of the West Overton Distilling Company and A. Overholt & Company, that no distribution could be made until certain questions had been settled—as definitely as we as counsel could advise them—about a possible floor tax, possible expense and tax involved in removing the whiskey to Government warehouses, should the Government require that, possible tax and expense involved in bottling the whiskey which was then in the distilleries at West Overton and A. Overholt & Company's plant at Broadford.

Mr. Eustace:

I move to strike the answer, as not responsive, and argumentative, and invading the province of the Court, and does not tend to prove or disprove any issue involved in this case.

The Court: The objection is overruled and exception noted.

Q. Would these matters have involved any amount of money, if they had been adopted by the Government?

A. They would have involved very large sums of money, sums of money larger than the company at that time would have been—or sums larger than the surviving partners at that time would have been able to have taken care of out of the then assets of the partnership.

Mr. Eustace:

Move to strike the answer and the question, as calling for a conclusion of the witness, and the answer itself showing that it is a conclusion, and not tending to prove or disprove any of the issues in this case.

The Court:

The fact that two and two make four is a conclusion, and this is almost the same thing, I take it; I will overrule your objection and note an exception, for the present.

Q. Did the fact that a tax might be assessed on all whiskey, either as a floor tax or as an Internal Revenue tax upon bottling, enter into your consideration in giving your advice to Messrs. A. W. and R. B. Mellon?

A. It certainly did.

Mr. Eustace:

That is objected to, as incompetent, irrelevant and immaterial.

The Court:

The objection is overruled and exception noted, for the present.

Q. Did you handle the income tax affairs for the former corporations, A. Overholt & Co. and West Overton Distilling Company?

A. I had charge of them, yes, sir.

Q. In 1920 had the Commissioner, or the Government, or the Collector asserted any deficiency against the two corporations for any years?

Mr. Eustace:

That is objected to, as not the best evidence, and calling for a conclusion of the witness.

The Court:

Well, it is certainly an easier way of getting at it than going through all the correspondence. It may have been merely a verbal declaration made to the witness on the part of the official. You have not stated that, as to the method; I would like that before I rule upon the other question.

Mr. Booth:

I think he could answer this question yes or no, and then develop those other facts.

The Court:

Well, those preliminary questions, of course, take up the other question, too. However, if you don't want to do it, I will sustain the objection and note an exception.

Q. Did you handle all the income tax matters of the two corporations?

A. I tried to, Mr. Booth.

Q. Were you personally present at all conferences with the Commissioner?

A. I think I attended all conferences which were conducted by the internal revenue agent from the Internal Revenue Agent's Office in Pittsburgh who made the examination of the income and excess profits tax returns of A. Overholt & Company and West Overton Distilling Company for the years 1917 and '18 and the income tax return for the two corporations for the year 1916; also attended, I think, all the conferences which were conducted in Washington in connection with the settlement and the final disposition of the tax matters of the A. Overholt & Company and West Overton Distilling Company, which filed consolidated returns for the year 1918 of income and excess profits taxes, and separate and consolidated income tax return for the year '17 of A. Overholt and West Overton, and separate excess profits tax returns.

Q. Do you personally know whether or not the Commissioner asserted a deficiency against the two corporations for the years '16, '17 and '18, whether or not the deficiency was subsequently increased or decreased, when the deficiency was paid, if at all, and when the tax matters of the corporations were finally settled? The question is, do you know personally those facts?

Mr. Eustace:

That is objected to, as immaterial and irrelevant.

The Court:

Well, there are a number of things you can answer "I do" or "I don't." It includes too many; I never like that form of question myself.

Mr. Booth:

It is our contention that letters of the Commissioner are not necessarily the best evidence.

The Court:

We are talking about a little different thing though. Mr. Seifert has not been able to follow you,—you put a number of different elements into your question. Out of the five or six he may know one or two and not know as to the other; so it makes it difficult to answer. If put specifically as to each, it would be very much easier and more satisfactory.

Q. Do you personally know whether the Commissioner declared a deficiency in income tax against the two corporations for any of the years 1916, '17 or '18?

A. I know that the Commissioner—

Q. Just answer whether you know or not?

A. If you mean by "asserting deficiency" proposing deficiency in letters which were addressed to the corporations, I will answer that question yes.

Mr. Eustace:

I move to strike the answer, as not responsive.

The Court:

I think it is. Objection overruled and exception noted.

Q. Do you personally know the approximate amount of those deficiencies?

A. I do.

Q. Approximately what do they amount to?

Mr. Eustace:

That is objected to, for the reason it is immaterial and irrelevant to the issues involved in this case, what deficiencies may have been asserted or determined prior to the year 1920.

Mr. Booth:

If the Court please, I don't intend to prove the exact amount of the deficiency; the amount of the deficiency is not in question. But it is in question whether or not there were any debts or liabilities of this corporation in 1920. We propose to prove by this witness only that such debts were in existence, contingent liabilities, and were not settled until later years.

The Court:

Go ahead with that general proposition. We will overrule the objection to that.

Q. (Question read.)

A. About $550,000 for the years '16, '17 and '18.

Q. When were they finally settled?

A. December 28, 1928.

Q. Do you personally know of the final distribution by the surviving partners in 1925?

A. Yes, sir.

Q. When that distribution was made, did you or did you not advise them with respect to the unpaid income taxes and whether or not any part should be retained to meet those payments when they were demanded?

A. Yes, sir.

Mr. Eustace:

Just a moment. That is objected to, as incompetent, irrelevant and immaterial.

The Court:

Of course it is leading, but it gets us to a phase of the matter which I think could be admitted more quickly than by having him detail all his advice in connection with it. He might properly be asked what was his advice in the situation, and then detail it; and I think this gets us to it more quickly. I will overrule that objection.

Q. What was your advice to the surviving partners in the year 1925?

A. Our advice was that no distribution of any of the assets of the partnership could be made until all debts had been discharged and all possible contingent liabilities disposed of.

Mr. Eustace:

Motion is now made to strike the answer of the witness and the question.

The Court:

The motion is denied, and exception noted, for the present.

Q. Was that advice also given in 1920?

A. I think your question related to 1920, and my answer was related to the year 1920.

Q. Now, what advice did you give them in the year 1920 with respect to final distribution?

A. No final distribution could be made in the year 1920.

Q. In the year 1925, I mean.

A. In the year 1925, as the assets had been disposed of in bulk, we advised that distribution could then be made of everything except what might be necessary to take care of undisposed of Federal income and excess profits tax liabilities.

Mr. Eustace:

I move to strike the answer, as immaterial and incompetent.

The Court:

The motion is denied, and exception, for the present.

Mr. Booth:

Cross examine.

Mr. Eustace:

At this time defendant moves to strike the testimony of this witness, for the reason that it does not prove or tend to prove any issue involved in this case; the testimony is argumentative, an expression of conclusions of the witness, and incompetent, irrelevant and immaterial.

The Court:

The motion is denied and exception noted.

There was no cross examination of the witness Seifert.

Thereupon, the plaintiffs rested.

Mr. Eustace:

If the Court please, so that we may clearly understand that the record is protected, we desire to re-

quest that in all cases where the Court expressly stated that objections were overruled for the present it may be understood that exceptions are noted and allowed for all adverse rulings.

The Court:

Certainly.

Mr. Eustace:

At this time, the plaintiffs having rested their cases, the defendant moves for judgment in favor of the defendant and against the plaintiffs, upon the following grounds:

First: Under and pursuant to the provisions of Section 30 of the Pennsylvania Partnership Act, March 26, 1915, Pennsylvania Laws 1859, P. S. 92, the partnerships of A. Overholt & Company and West Overton Distilling Company were not terminated by the death of Henry C. Frick;

Second: As a matter of law, the partnerships of A. Overholt & Company and West Overton Distilling Company continued in existence throughout the year 1920;

Third: As a matter of law, A. Overholt & Company and West Overton Distilling Company were required to file partnership returns of income for the year 1920, in accordance with the provisions of Section 224 of the Revenue Act of 1918;

Fourth: Under the provisions of Section 218 of the Revenue Act of 1918, A. W. Mellon was taxable

upon his distributive share of the net income of each of the partnerships of A. Overholt & Company and West Overton Distilling Company for the year 1920. And exactly that same reason as applied to the income of R. B. Mellon;

Fifth: The income of a partnership in process of liquidation is taxable for Federal income tax purposes to the individual members thereof in the respective years in which realized, earned and received by the partnership;

Sixth: There is no warrant in law for postponing the taxation of a partnership in process of liquidation to the year in which the winding up of the affairs of the partnership is completed;

Seventh: There is no warrant in law for the plaintiffs' contention that the income of A. Overholt & Company and West Overton Distilling Company was not taxable until A. W. Mellon had received payments exceeding the cost value of his interest in the partnerships as of December 2, 1919. The same reason is applied to the case filed by R. B. Mellon;

Eighth: The Commissioner of Internal Revenue and the United States are now precluded from assessing and collecting from A. Overholt & Company, West Overton Distilling Company, the Estate of R. B. Mellon, A. W. Mellon and the Estate of Henry C. Frick any additional amounts of income taxes on the income for the year 1920 of A. Overholt & Company and the income for 1920 of West Overton Distilling Company;

For the further reason that the pleadings and evidence in this case, with every inference of fact that may be drawn from it, are insufficient in law to warrant a judgment against the defendant;

For the further reason that under the law and the evidence the record does not contain any substantial evidence to support findings of fact and conclusions of law and judgment in favor of the plaintiffs and against the defendant;

And for the further reason that the defendant on the pleadings and the evidence in this case is entitled to judgment dismissing plaintiffs' statements of claim at plaintiffs' costs.

This motion is made to apply to each of the cases.

The Court:

We will overrule that motion at this time, with leave to renew it at the conclusion of the case, after you have rested.

To which ruling of the Court the defendant by his counsel then and there duly excepted in each of said cases.

The opening statement of defendant was presented to the Court by his counsel. Thereupon, the defendant, to sustain the issues upon his part in each of said consolidated causes, offered the following as his evidence in chief:

Mr. Eustace:

Defendant will now read into the record from the New Matter contained in the amended affidavit of defense (A. W. Mellon case).

Beginning with the first numbered paragraph of the New Matter, defendant offers in evidence the following part of Paragraph 1, which is admitted by Paragraph 1 of the Reply:

> "1. On or about March 15, 1921, plaintiff and his brother, Richard B. Mellon, caused to be filed with the Collector of Internal Revenue for the Twenty-third District of Pennsylvania a partnership return of income for the calendar year 1920 in the name of and for A. Overholt & Company on official form 1065, the form provided by the Commissioner of Internal Revenue for the making of partnership returns of income. * * *"

And then, appearing in the paragraph in the Reply the following sentence: "Plaintiff avers that said return constituted a return of income."

Paragraph 2:

> "2. Neither Richard B. Mellon nor the plaintiff, nor both acting jointly, filed or caused to be filed an income tax return for the year 1920, covering any portion of the income of A. Overholt & Company on the form prescribed for the making of returns by fiduciaries of a trust."

Paragraph 5:

> "5. On or about March 15, 1921, plaintiff and his brother, Richard B. Mellon, caused to be filed

with the Collector of Internal Revenue for the Twenty-third District of Pennsylvania a partnership return of income for the calendar year 1920 in the name of and for said West Overton Distilling Company on official form 1065, the form prescribed by the Commissioner of Internal Revenue for the making of partnership returns of income. * * *" And also the averment in Paragraph 5 of the Reply: "Plaintiff avers that said return constituted a return of income."

Mr. Booth:

If the Court please, that is admitted, except the use of the word "partnership" in the third line of Paragraph 5, before the words "return of income". The Reply in the admission omits that word, and then goes a step further and denies "it was claimed and represented West Overton Distilling Company was a partnership". And the same thing applies with respect to Paragraph 1.

The Court:

It may be admitted, subject to the limitation of the answer.

Mr. Eustace:

Paragraph 6, as follows:

"6. Neither Andrew W. Mellon nor Richard B. Mellon, nor both acting jointly, filed or caused to be filed an income tax return for the year 1920, covering any portion of the income of West Overton Distilling Company on the form prescribed

for the making of returns for fiduciaries of a trust."

Paragraph 9:

"9. If the income of A. Overholt & Company for the calendar year 1920 had been treated and reported by plaintiff and his brother, Richard B. Mellon, as the income of a taxable trust, the correct tax liability, exclusive of interest as provided by law, would have been $551,914.70, computed as follows:

Net income as determined by the Commissioner, as set forth in Par. 19 hereof	$845,339.86
Less: Exemption	1,000.00
Income subject to normal tax	$844,339.86
Normal tax at 4% on $4,000	$ 160.00
Normal tax at 8% on $840,339.86	67,227.19
Surtax on $845,339.86	484,527.51
Total tax liability	$551,914.70."

Mr. Booth:

If the Court please, plaintiffs object to the offering in evidence of Paragraph 9 of the New Matter set forth in the affidavit of defense, on the ground that it is not admitted by the Reply in the words offered. The Reply admits that the correct tax liability on a certain amount of income, $845,339.86, would have been $551,914.70, but denies that, if a taxable trust existed, it realized such income.

The Court:

Well, it may be admitted, subject to the limitation by the answer. An exception is noted to plaintiffs.

Mr. Eustace:

Paragraph 10, as follows:

"10. If the income of West Overton Distilling Company for the calendar year 1920 had been treated and reported by plaintiff and his brother, Richard B. Mellon, as the income of a taxable trust, the correct tax liability, exclusive of interest as provided by law, would have been $66,673.42, computed as follows:

Net income determined by the Commissioner, as set forth in Par. 19 hereof	$158,442.84
Less: Exemption	1,000.00
Income subject to normal tax	$157,442.84
Normal tax at 4% on $4,000	$ 160.00
Normal tax at 8% on $153,442.84	12,275.43
Surtax on $158,442.84	54,237.99
Total tax liability	$ 66,673.42."

Mr. Booth:

Same objection.

The Court:

It may be admitted, subject to the limitation of the answer. An exception noted to plaintiffs.

Mr. Eustace:

At this point, having reference to the computation in Paragraph 19 of the First Defense, will counsel admit the correctness of the computation as showing what the Commissioner did in arriving at the net income of the two partnerships?

It is admitted with reference to the computation in Paragraph 19 of the First Defense that the total net income of the A. Overholt & Company for the year 1920, as determined by the Commissioner, was $845,339.86, one-third of which, $281,779.95, was divided into an item $48,350.74 reported on the individual return of each of the plaintiffs as income from bottling, storage and miscellaneous of A. Overholt & Company, and increased by the Commissioner in the amount of $233,429.21 as the plaintiff's share of the income from the sale of whiskey.

Mr. Booth:

As computed by the Commissioner. That is substantially correct; we admit that, except we do not admit that the $233,000 was income; that is the income as computed by the Commissioner.

The Court:

That is, you admit it is mathematically correct?

Mr. Booth:

We admit that if it is taxable, that is the correct amount.

Mr. Eustace:

Now I would like to have the same admission with reference to the West Overton Distilling Company, the amounts being as follows:

It is admitted that the total net income of the West Overton Distilling Company for the year 1920, as determined by the Commissioner, was $158,442.84, one-third of which, $52,814.28, was divided into an item $5,960.55 reported on the individual return of each of the plaintiffs as income from bottling, storage and miscellaneous of West Overton Distilling Company, and increased by the Commissioner in the amount of $46,853.73 as the plaintiff's share of the income from the sale of whiskey.

Mr. Booth:

That is admitted, with the same qualification as stated with respect to A. Overholt & Company.

Mr. Eustace:

Returning to the Second Defense, Paragraph 11, the first part we are offering, as being admitted by the insufficiency of the denial:

> "11. The defendant, the Commissioner of Internal Revenue, and the United States relied to their prejudice on plaintiff's original position and representation in respect of the manner and method of reporting the income for the calendar year 1920 of A. Overholt & Company and the West Overton Distilling Company,"—There is no question about the admission of the next part—"and if said organizations were taxable trusts, as now

contended by plaintiff, the Commissioner of Internal Revenue and the United States are now precluded from assessing and collecting the aforesaid tax liabilities for 1920 of $551,914.70 and $66,673.42 * * *."

Mr. Booth:

The latter part of that was admitted by the Reply, but the first part of Paragraph 11 was specifically denied by the Reply in the very words of the paragraph, with a contrary averment, on page 7 of the Reply.

The Court:

Of course, there is an admission that they are precluded from assessing and collecting any taxes therein alleged.

Mr. Eustace:

That admission is clear; and our construction is that the first part is admitted by inference, in the manner in which it is denied, an insufficient denial.

The Court:

I think I shall sustain the objection to that, and note an exception.

Mr. Eustace:

Then it is understood that the part in the middle of the paragraph is admitted?

The Court:

Yes; I see it is admitted as a distinct admission. You might make a declaration to that effect.

Mr. Eustace:

Defendant now offers that portion of Paragraph 11 of the Second Defense, reading as follows: "If said organizations were taxable trusts, as now contended by plaintiff, the Commissioner of Internal Revenue and the United States are now precluded from assessing and collecting aforesaid tax liabilities for 1920 of $551,914.70 and $66,673.42."

And the Third Defense. Beginning on page 19, Paragraph 5 of the Third Defense:

> "5. On or prior to December 31, 1925, all of the monies, properties and assets of whatever nature of A. Overholt & Company were distributed to the plaintiff, his brother Richard B. Mellon, and the estate of Henry C. Frick, leaving said organization with no assets or property out of which the aforesaid tax liability of $551,914.70 could have been collected."

Mr. Booth:

We object to the last part of that; the admission is down to the word "property."

The Court:

Well, that is the substance of it.

Mr. Eustace:

Paragraph 6 of the Third Defense:

> "6. The amount of money, together with the value of property so received by plaintiff in distribution, was equal to or in excess of the aforesaid tax liability of $551,914.70, plus interest as provided by law."

The Court:

Well, the liability part is denied, if you leave that out,—"equal to or in excess of $551,914.70," and so on, it is admitted.

Mr. Eustace:

Paragraph 7 of the Third Defense:

"7. On or prior to December 31, 1925, all of the monies, properties and assets of whatever nature of West Overton Distilling Company were distributed to the plaintiff, his brother Richard B. Mellon, and the estate of Henry C. Frick, leaving said organization with no assets or property out of which a tax liability of $66,673.42 could have been collected."

Mr. Booth:

Object to the last phrase.

The Court:

Well, it is admitted up to the words "no assets or property," which is the essential part of the admission.

Mr. Eustace:

Paragraph 8 of the Third Defense

"8. The amount of money, together with the value of property so received by plaintiff in distribution, was equal to or in excess of $66,673.42 plus interest."

Mr. Booth:

No objection.

Mr. Eustace:

In the case filed by R. B. Mellon, we desire to offer similar paragraphs, as follows:

Paragraph 1 of the Second Defense:

"1. On or about March 15, 1921, Richard B. Mellon executed and caused to be filed with the Collector of Internal Revenue for the Twenty-third District of Pennsylvania a partnership return of income for the calendar year 1920 in the name of and for A. Overholt & Company on official form 1065, the form provided by the Commissioner of Internal Revenue for the making of partnership returns of income. * * *" And the following sentence from paragraph 1 of the Reply: "Plaintiff avers that said return constituted a return of income."

Paragraph 2 of the Second Defense:

"2. Neither Andrew W. Mellon nor Richard B. Mellon, nor both acting jointly, filed or caused to be filed an income tax return for the year 1920, covering any portion of the income of A. Overholt & Company on the form prescribed for the making of returns by fiduciaries of a trust."

Paragraph 5 of the Second Defense:

"5. On or about March 15, 1921, Richard B. Mellon executed and caused to be filed with the Collector of Internal Revenue for the Twenty-third District of Pennsylvania a partnership return of income for the calendar year 1920 in the name of and for said West Overton Distilling Company on official form 1065, the form prescribed by the Commissioner of Internal Revenue for the making of partnership returns of income. * * *"

And in connection therewith, the averment of Paragraph 5 of the Reply: "Plaintiff avers that said return constituted a return of income."

Mr. Booth:

If the Court please, that is admitted, except the use of the word "partnership" in the third line of Paragraph 5, before the words "return of income." The Reply in the admission omits that word, and then goes a step further and denies "it was claimed and represented West Overton Distilling Company was a partnership." And the same thing is true with respect to Paragraph 1.

The Court:

It may be admitted, subject to the limitation of the answer.

Mr. Eustace:

Paragraph 6 of the Second Defense:

"6. Neither Andrew W. Mellon nor Richard B. Mellon, nor both acting jointly, filed or caused to be filed an income tax return for the year 1920, covering any portion of the income of West Overton Distilling Company on the form prescribed for the maknig of returns for fiduciaries of a trust."

Paragraph 9 of the Second Defense:

"9. If the income of A. Overholt & Company for the calendar year 1920 had been treated and reported by R. B. Mellon and his brother Andrew W. Mellon as the income of a taxable trust, the correct tax liability, exclusive of interest as pro-

vided by law, would have been $551,914.70, computed as follows:

Net income as determined by the Commissioner, as set forth in Par. 19 hereof	$845,339.86
Less: Exemption	1,000.00
Income subject to normal tax	$844,339.86
Normal tax at 4% on $4,000	$ 160.00
Normal tax at 8% on $840,339.86 ..	67,227.19
Surtax on $845,339.86	484,527.51
Total tax liability	$551,914.70"

Mr. Booth:

If the Court please, plaintiffs object to the offering in evidence of Paragraph 9 of the New Matter set forth in the affidavit of defense, on the ground that it is not admitted by the Reply in the words offered. The Reply admits that the correct tax liability on a certain amount of income, $845,339.86, would have been $551,914.70, but denies that, if a taxable trust existed, it realized such income.

The Court:

Well, it may be admitted, subject to the limitation by the answer. An exception is noted to plaintiffs.

Mr. Eustace:

Paragraph 10 of the Second Defense:

"10. If the income of West Overton Distilling Company for the calendar year 1920 had been treated and reported by R. B. Mellon and his

brother, Andrew W. Mellon, as the income of a taxable trust, the correct tax liability, exclusive of interest as provided by law, would have been $66,673.42, computed as follows:

Net income determined by the Commissioner, as set forth in Par. 19 hereof	$158,442.84
Less: Exemption	1,000.00
Income subject to normal tax	$157,442.84
Normal tax at 4% on $4,000	$ 160.00
Normal tax at 8% on $153,442.84	12,275.43
Surtax on $158,442.84	54,237.99
Total tax liability	$ 66,673.42"

Mr. Booth:

Same objection.

The Court:

It may be admitted, subject to the limitation of the answer. Exception noted to plaintiffs.

Mr. Eustace:

At this point, having reference to the computation in Paragraph 19 of the First Defense, will counsel admit the correctness of the computation as showing what the Commissioner did in arriving at the net income of the two partnerships?

It is admitted with reference to the computation in Paragraph 19 of the First Defense that the total net income of the A. Overholt & Company for the year

1920, as determined by the Commissioner, was $845,339.86, one-third of which, $281,779.95, was divided into an item $48,350.74 reported on the individual return of each of the plaintiffs as income from bottling, storage and miscellaneous of A. Overholt & Company, and increased by the Commissioner in the amount of $233,429.91 as the plaintiff's share of the income from the sale of whiskey.

Mr. Booth:

As computed by the Commissioner. That is substantially correct; we admit that, except we do not admit that the $233,000 was income; that is the income as computed by the Commissioner.

The Court:

That is, you admit it is mathematically correct?

Mr. Booth:

We admit that if it is taxable, that is the correct amount.

Mr. Eustace:

Now I would like to have the same admission with reference to the West Overton Distilling Company, the amounts being as follows:

It is admitted that the total net income of the West Overton Distilling Company for the year 1920, as determined by the Commissioner, was $158,442.84, one-third of which, $52,814.28, was divided into an item $5,960.55 reported on the individual return of each of the plaintiffs as income from bottling, storage and miscellaneous of West Overton Distilling Company, and increased by the Commissioner in the amount of

$46,853.73 as the plaintiff's share of the income from the sale of whiskey.

Mr. Booth:

That is admitted, with the same qualification as stated with respect to A. Overholt & Company.

Mr. Eustace:

Returning to the Second Defense, Paragraph 11, the first part we are offering, as being admitted by the insufficiency of the denial:

> "11. The defendant, the Commissioner of Internal Revenue, and the United States relied to their prejudice on R. B. Mellon's original position and representation in respect of the manner and method of reporting the income for the calendar year 1920 of A. Overholt & Company and the West Overton Distilling Company, and if said organizations were taxable trusts, as now contended by plaintiffs, the Commissioner of Internal Revenue and the United States are now precluded from assessing and collecting the aforesaid tax liabilities for 1920 of $551,914.70 and $66,673.42 * * *."

Mr. Booth:

The latter part of that was admitted by the Reply, but the first part of Paragraph 11 was specifically denied by the Reply in the very words of the paragraph, with a contrary averment, on page 7 of the Reply.

The Court:

Of course, there is an admission that they are precluded from assessing and collecting any taxes therein alleged.

Mr. Eustace:

That admission is clear; and our construction is that the first part is admitted by inference, in the manner in which it is denied, an insufficient denial.

The Court:

I think I shall sustain the objection to that, and note an exception.

Mr. Eustace:

Then it is understood that the part in the middle of the paragraph is admitted?

The Court:

Yes; I see it is admitted as a distinct admission. You might make a declaration to that effect.

Mr. Eustace:

Defendant now offers that portion of Paragraph 11 of the Second Defense, reading as follows: "If said organizations were taxable trusts, as now contended by plaintiffs, the Commissioner of Internal Revenue and the United States are now precluded from assessing and collecting aforesaid tax liabilities for 1920 of $551,914.70 and $66,673.42."

As to the Third Defense: I offer Paragraph 5 of the Third Defense, as follows:

> "5. On or prior to December 31, 1925, all of the monies, properties and assets of whatever nature of A. Overholt & Company were distributed to R. B. Mellon, his brother Andrew W. Mellon, and the estate of Henry C. Frick, leaving said organization with no assets of property out of

which the aforesaid tax liability of $551,914.70 could have been collected."

Mr. Booth:

We object to the last part of that; the admission is down to the word "property".

The Court:

Well, that is the substance of it.

Mr. Eustace:

Paragraph 6 of the Third Defense:

"6. The amount of money, together with the value of property so received by R. B. Mellon in distribution, was equal to or in excess of the aforesaid tax liability of $551,914.70, plus interest as provided by law."

The Court:

Well, the liability part is denied. If you leave that out—"equal to or in excess of $551,914.70", and so on, it is admitted.

Mr. Eustace:

Paragraph 7 of the Third Defense:

"7. On or prior to December 31, 1925, all of the monies, properties and assets of whatever nature of West Overton Distilling Company were distributed to R. B. Mellon, his brother Andrew W. Mellon, and the estate of Henry C. Frick, leaving said organization with no assets or property out of which a tax liability of $66,673.42 could have been collected."

Mr. Booth:

Object to the last phrase.

The Court:

Well, it is admitted up to the words "no assets or property", which is the essential part of the admission.

Mr. Eustace:

Paragraph 8 of the Third Defense:

> "8. The amount of money, together with the value of property so received by R. B. Mellon in distribution, was equal to or in excess of $66,673.42, plus interest."

Mr. Booth:

No objection.

Mr. Eustace:

At this time defendant offers in evidence Bureau letters attached to Plaintiffs' Exhibit No. 2, being letter dated February 27, 1934 to A. W. Mellon, and letter dated April 6, 1934 to A. W. Mellon.

Mr. Booth:

If the Court please, we object to the introduction of these letters as being part of our Exhibit No. 2. We object to the introduction of the letter dated February 27, 1934, as being self-serving declarations, and therefore incompetent and irrelevant. We have no objection to the letter dated April 6, 1934, which was merely a formal notice of the rejection of our refund claim.

The Court:

I will overrule the objection to that. It may be admitted as tending to show the general procedure which was observed.

Which said letters dated February 27, 1934, and April 6, 1934, to A. W. Mellon, so offered and admitted in evidence, are in words and figures as follows:

February 27, 1934.

Hon. A. W. Mellon,
Woodland Road,
Pittsburgh, Pennsylvania.

Sir:

Your claim for refund of $194,160.75, income taxes for the taxable year 1920, has been examined.

Your claim is based on the statement that amounts of $281,779.95 and $52,814.28 were included in taxable income representing operating profits of A. Overholt and Company and the West Overton Distilling Company, respectively, and that since the partnerships were in liquidation the profits were not reportable until the year 1925 when final liquidation occurred.

Careful consideration has been accorded the information submitted in the brief dated October 11, 1932 and at the conference held in Washington, D. C., October 12, 1932 and this office holds that your proportionate share of the operating profits of the above-mentioned partnerships were properly reportable on your 1930 return.

Accordingly, the claim will be disallowed. In accordance with section 1103 (a) of the Revenue Act of 1932 official notice of the disallowance of the claim will be issued by registered mail.

A copy of this letter is being forwarded to your representative, Mr. William A. Seifert, in accordance with the authority conferred upon him in your power of attorney on file with the Bureau.

Respectfully,

CHAS. T. RUSSELL,
Deputy Commissioner.

By (Signed) H. B. ROBINSON,
Head of Division.

April 6, 1934.

Hon. A. W. Mellon,
Woodland Road,
Pittsburgh, Pennsylvania.

In re: Refund claim for year 1920
Amount $194,160.75.

Sir:

Reference is made to Bureau letter dated Feb. 27, 1934 wherein you were informed that the claim for refund indicated above would be disallowed. The letter also stated the reasons for the proposed disallowance.

You are hereby notified that the claim was disallowed on a schedule dated Apr. 6, 1934. This

notification is being mailed to you by registered mail and constitutes notice of the disallowance of the claim in accordance with the provisions of Section 3226, Revised Statutes as amended, and as further amended by Section 1103 of the Revenue Act of 1932.

By direction of the Commissioner:

Respectfully,

CHAS. T. RUSSELL,
Deputy Commissioner.

By (Signed) T. F. LANGLEY,
Head of Division.

Mr. Eustace:

Defendant offers in evidence instrument identified as Defendant's Exhibit "A", being individual income tax return of A. W. Mellon for the year 1920, certified copy.

Mr. Booth:

If the Court please, we admit that this is a correct return, but all the evidence that is necessary to be taken from this return has been admitted by the pleadings; it contains a lot of schedules that are entirely immaterial and irrelevant to the issue in this case. The pleadings admit that Mr. Mellon in his individual return picked up a reported profit shown by the so-called partnership return and paid the tax on it, and the evidence so far admits that the Commissioner increased that figure and collected an additional tax; and this

report serves no just purpose in arriving at the issue in this case.

The Court:

The objection is overruled; an exception.

That the full purport and substance of said exhibit so offered and admitted in evidence is contained in the parts thereof which are in words and figures as follows:

Defendant's Exhibit "A".

(Pages 404 a, 404 b, 404 c.)

44 34

[illegible]DUAL INCOME TAX RETURN

46

PERIOD OTHER
A CALENDAR
THE RETURN
E FILED ON OR
THE 15TH DAY
THIRD MONTH
NG THE CLOSE
UCH PERIOD

Or for period [illegible] ended

Mar 3 1922

A W Mellon
Woodland Rd
Pittsburgh Pa

3rd PENNSYLVANIA
Carded in above district
306081

MAR. 15 1921

(or affirm) that this return, including the accompanying schedules and statements (if any), has been examined by me, and, to the best of my knowledge and belief, is a true return made in good faith, for the taxable period as stated, pursuant to the Revenue Act of 1918 and the Regulations issued under authority thereof.

My Commission Expires
February 21, 1922

(If return is made by agent, the reason therefor must be stated on this line.)

15th March 1921

A. W. Mellon
(Signature of individual or agent.)

[redacted]

(Title.)

(Address of individual or agent.)

CLAIM REJECTED
LETTER DATED 7/27/34

5. If neither, of what country are you a citizen or subject?

file a 1919? Yes
6. If so, what address did you give on that return? Same as above
7. To what Collector's office was it sent? (Give district or city and State) Pittsburgh Pa

8. Were you married and living with wife (or husband) on the last day of your taxable period? Single

receive any compensation during the taxable period on account of ment contracts through the operations of a claims board or otherwise? None

were you on the last day of your taxable period ing one or more persons living in your household closely related to you by blood, marriage, or adoption? Yes

10. How many dependent persons under 18 (or if 18 or over, incapable of self-support because mentally or physically defective) were receiving their chief support from you on the last day of your taxable period? One

If so, state (a) exemption claimed $

"R" if you keep no books, or books on a cash basis; "A" if you keep books on an accrual basis. R

13. Did you pay during the calendar year 1920 to any individual, salaries, wages, or other fixed or determinable income amounting to $1,000 or over

llow all nontaxable income received by you during the taxable period from the following sources:

	Principal.	Interest.	Class of Securities.	Principal.	Interest.
Loan 3½% Bonds unconverted; ... of the U.S. issued before Sept. ... obligations of U.S. possessions	$	$	Obligations of States and Territories, political subdivisions thereof, and the District of Columbia	3645M	121468
Loan 3½% Notes	750M	9843.75	Federal Farm Loan Bonds	2025M	91750

the table below income (whether received or not) from partnerships, personal service corporations, and fiduciaries.

Name and Address of Partnership, Personal Service Corporation, or Name of Estate or Trust, with Name and Address of Fiduciary					
[illegible]erhold & Co., Pittsburgh, Pa	1920	$	$	$	$ [illegible]
Overton Distilling Co., West Overton, Pa	1920				59[illegible]
A. W. & R. B. Mellon Trustees, Pittsburgh, Pa	1920				340[illegible]

and War Finance Corporation

of Interest	$	$	$	$ 462.[illegible]	5946.30		$ 2515.[illegible]		$
principal				15577.[illegible]	97[illegible].5[illegible]				$ 1922419.70
ptions.									

1.9 - Loan no Schedule 7/31

[illegible] INCOME

[illegible] 2. [illegible]

[illegible] $

[illegible] $

[illegible] $

[illegible] $

[illegible] $

[illegible] $

[illegible] $

[illegible] of salary to self included in [illegible] $

[illegible] expenses included in [illegible] $

[illegible] DEDUCTIONS.

12. [illegible] not reported as "Labor" under "Cost of goods sold" $

13. Rent on business property in which taxpayer has no equity

14. Interest on business indebtedness to others

15. Taxes on business and business property

16. Repairs, wear and tear, obsolescence, depletion, and property losses (explain in table below)

17. Amortization of war facilities

18. Bad debts arising from sales or professional services

19. Other expenses (list principal items and amounts at foot of page or on separate sheet)

20. TOTAL (Items 12 to 19, inclusive) $

21. NET COST, PLUS TOTAL DEDUCTIONS (Item 11 plus Item 20) $

22. NET INCOME FROM BUSINESS OR PROFESSION (Item 3 minus Item 21) $

[illegible] FROM SALARIES, WAGES, COMMISSIONS, BONUSES, DIRECTOR'S FEES, AND PENSIONS.

[illegible]	2. OCCUPATION.	3. NAME AND ADDRESS OF EMPLOYER.	4. AMOUNT RECEIVED.	5. EXPENSES (EXPLAIN BELOW).	
See schedule attached			$	$	
[illegible] INCOMES FROM SALARIES, ETC. (total of column 4 minus total of column 5)			$	$	$ 10921 59

[illegible] C.—INCOME FROM PARTNERSHIPS, PERSONAL SERVICE CORPORATIONS, AND FIDUCIARIES (From Item 15 (a) column 6, page 1) $ 93361 92

[illegible] B.—PROFIT FROM SALE OF LAND, BUILDINGS, STOCKS, BONDS AND OTHER PROPERTY, AND FROM LIQUIDATING DIVIDENDS.

[illegible] PROPERTY.	2. NAME AND ADDRESS OF PURCHASER OR BROKER.	3. SALE PRICE OR LIQUIDATING DIVIDENDS.	4. DATE ACQUIRED	5. COST, OR IF ACQUIRED PRIOR TO MARCH 1, 1913, THE FAIR MARKET VALUE ON THAT DATE.	6. COST OF SUBSEQUENT IMPROVEMENTS, IF ANY.	7. DEPRECIATION.	
		$		$	$	$	
	See schedule attached						
NET PROFIT FROM SALES (total of columns 3 and 7 minus total of columns 5 and 6)		$		$	$	$	$ 1308499 55

[illegible]HEDULE E.—INCOME FROM RENTS AND ROYALTIES.

[illegible] OF PROPERTY.	2. NAME AND ADDRESS OF TENANT, LESSEE, ETC.	3. AMOUNT RECEIVED.	4. REPAIRS, WEAR AND TEAR, OBSOLESCENCE, DEPLETION AND PROPERTY LOSSES.	5. INTEREST.	6. TAXES.	7. OTHER EXPENSES (EXPLAIN BELOW).	
		$		$			
	See schedule attached						
[illegible] AND ROYALTIES (total of column 3 [illegible] and 7)		$	$	$	$	$	$ [illegible]

[illegible].—INTEREST ON CORPORATION BONDS CONTAINING TAX-FREE COVENANT, ON WHICH A TAX OF 2% WAS PAID AT SOURCE.

[illegible] (a) directly, $; (b) through partnerships, personal service corporations, and fiduciaries (Item 15 (a), column 3), $ TOTAL $ 116611 97

[illegible]HEDULE G.—OTHER INCOME (not including dividends, or interest on obligations of the United States).

	AMOUNT RECEIVED.	
[illegible]erest on bonds, mortgages, and other obligations of domestic and resident corporations except as reported in Schedule F	$ 350	
[illegible]erest on bonds of foreign countries and corporations, and dividends on stock of foreign corporations which are not taxable by the United States on their net incomes	6467	20
[illegible]erest on bank deposits, mortgages, etc	201294	45
[illegible] paid for you at source on tax-free covenant bonds	2132	94
[illegible] from underwriting	2027	70
		$ 212272 29

[illegible] from underwriting	2132 94 / 2027 70	
Total		$212272 29

[illegible] H.—DIVIDENDS.

[illegible] (c) directly, $ _____; (f) through partnerships, personal service corporations, and fiduciaries (Item 15 (a), column 4), $ None TOTAL 3353819 22

[illegible] TAXABLE INTEREST ON LIBERTY BONDS, OTHER OBLIGATIONS OF THE UNITED STATES, AND WAR FINANCE CORPORATION BONDS (from Item 16 (l), page 1) $ 4347 [illegible]

[illegible] J.—TOTAL NET INCOME FROM ABOVE SOURCES (Total net income less total deficits shown in above Schedules) 2370499 61

[illegible] K.—DEDUCTIONS (except those included above and contributions).

[illegible] paid	[illegible]	3. Loss by fire, storm, etc. (explain in table below) $		5. Amounts paid to beneficiaries, etc. $	
	[illegible]	4. Bad debts (explain in space at foot of page)		Office expense 36160.20	610142 99
				TOTAL	

[illegible] (deductible contributions) (J minus K) 1759956 62

[illegible] (Enter amount paid to each corporation) 239341 00

[illegible] TAXABLE INCOME TO BE COMPUTED (L minus M) (Enter as Item 17, page 1) 1620616 6[illegible]

[illegible] PROPERTY LOSSES, ETC., CLAIMED AS DEDUCTIONS IN SCHEDULES A, E, AND K ABOVE.

[illegible]	[illegible]	[illegible]	4. Business, Occupation and Individual.	Wear and Tear, Obsolescence, and Depletion Charged Off.				10. Losses not Compensated for by Insurance or Otherwise Cause and How Amount Was Arrived at.
				7. Rate.	8. Amount past four years.	9. Amount this year.		
					$	$		
[illegible]								

[illegible] Schedule E, column 7; Schedule K, Item 4; and Schedule M. (Attach separate sheet if necessary.)

[illegible] is salaries, rent supplies, etc.

[illegible] extinguishing fire in coal, demolishing building, etc

[redacted]

IF FOR A PERIOD OTHER THAN A CALENDAR YEAR THE RETURN SHOULD BE FILED ON OR BEFORE THE 15TH DAY OF THE THIRD MONTH FOLLOWING THE CLOSE OF SUCH PERIOD

I swear (or affirm) that this retur
and complete return made in good fai
My Commission E
February 21, 19

[redacted]

United States? ____
Did you file a
return for 1919? ____ Yes
Did you receive any
Government contracts through th
If not, were you on the last day
supporting one or more persons
who are closely related to you by
11. Was a separate return filed
by your wife (or husband)?
12. Write "R" if you kept no books,
basis or "A" if you kept books on
14. Enter below all nontaxable inco

Kind of Securities.	
First Liberty Loan 3½% Bonds unexcepted	
Other obligations of the U.S. issued before Sept. 1, 1917, and obligations of U. S. possessions	
Second Liberty Loan 3½% Notes	

15. Enter in the table below income (

1. Name and Address of Partnership, Trust, with Na

Overholt & Co
Westoverton Distil
Mr. A. W. Mellon

Designation	Third Liberty Loan Converted 4% Bonds of 1928-47.
Interest Dates	June 15. December 15.
(a) Amount of interest	$
(b) Average principal	
Exemptions.	
(c) $5,000	
(d) 20,000	
(e) 30,000	
(f) 45,000	
(g) 50,000	x x x x x x
(h) 30,000	x x x x x x
(i) 5,000	x x x x x x

(f) 45,000	
(g) 20,000	x x x x x x
(h) 20,000	x x x x x x
(i) 5,000	x x x x x x
(j) Principal in excess of exemptions	
(k) Taxable interest	

(l) Total taxable interest on all obli

State the amount of the Victory Lib

State the amount of the Fourth Liber

17. Net income on which tax is to b

18. Less: Dividends (from Schedule

19. Taxable interest on Liber (from Item 16 (k) above)

20. Personal exemption

21. TOTAL OF ITEMS 18, 19, A

22. Balance subject to normal tax (I

23. Amount subject to normal tax a

24. Balance subject to normal tax at

PREPARA

Did you employ anyone especi

return? (Answer "Yes" or "No.")

state the extent to which you receiv

FROM

See sc

Net Income from Salaries, etc.

SCHEDULE C.—INCOME FROM PARTN

SCHEDULE D.—PROFIT FROM SALE O

1. Kind of Property.	2. Nam
	See sc

Net Profit from Sales (total of

SCHEDULE E.—INCOME F

1. Kind of Property.	2. Name
	See sc

and 7)

Received (a) directly, $

SCHEDULE G.—OTHER IN

Interest on bonds, mortgages, and

Interest on bonds of foreign count

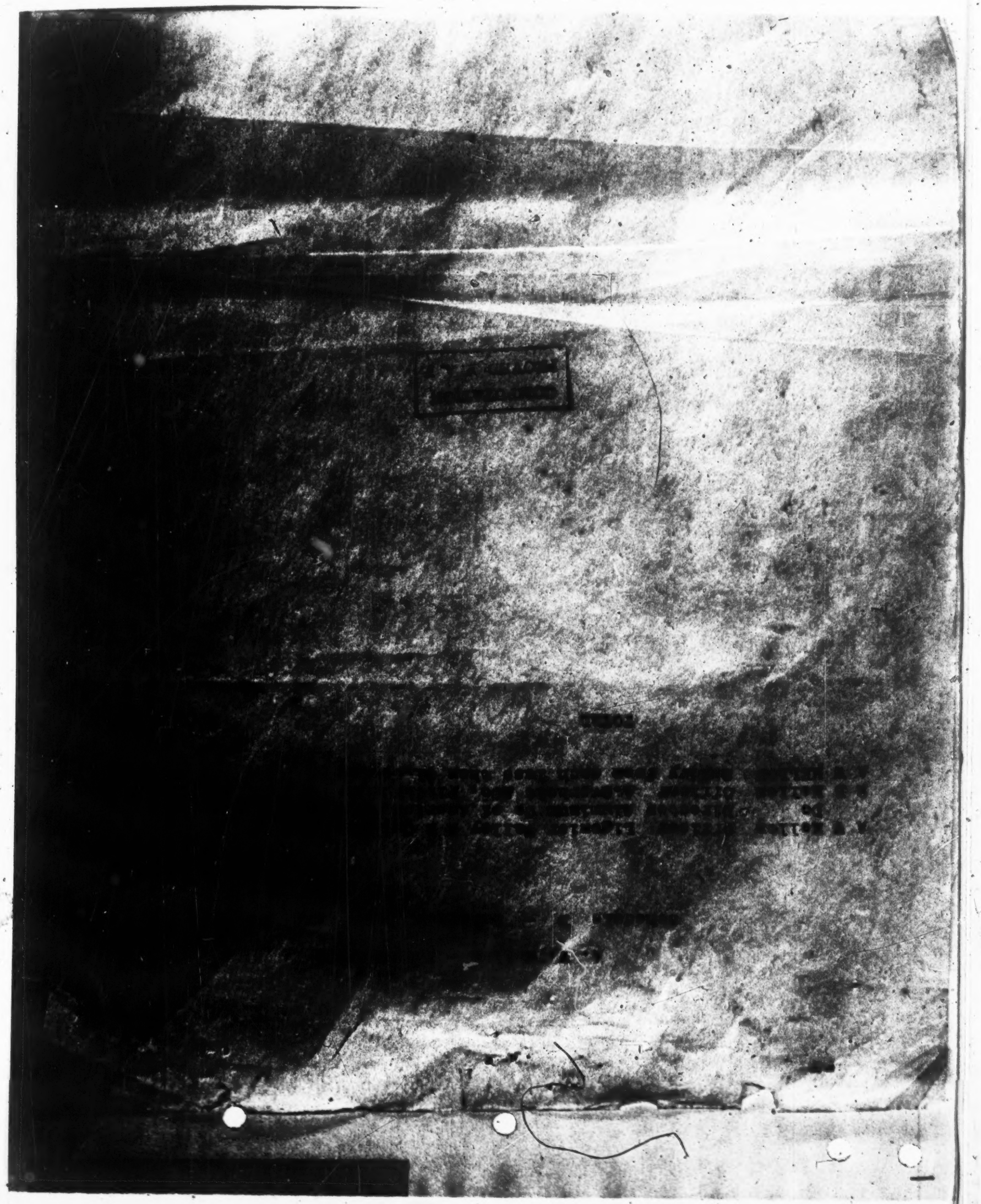
income on their net incomes

Interest on bank deposits, mortgag

Interest paid for you at source on

from underwri

Total



Mr. Eustace:

Defendant offers in evidence a certified copy of the individual income tax return of Richard B. Mellon for the year 1920, identified as Defendant's Exhibit "B".

Mr. Booth:

Same objection.

The Court:

Objection overruled; exception noted.

That the full purport and substance of said exhibit so offered and admitted in evidence is contained in the parts thereof which are in words and figures as follows:

Defendant's Exhibit "B".

(Page 406 a.)

...A IS FOR
...AR YEAR 1920
...T WITH THE
...R OF INTERNAL
...E FOR YOUR
...ON OR BEFORE
...CH 15, 1921

...PERIOD OTHER
...A CALENDAR
...THE RETURN
...E FILED ON OR
...THE 15TH DAY
...THIRD MONTH
...NG THE CLOSE
...UCH PERIOD

Form 1040—UNITED STATES INTERNAL REVENUE SERVICE

INDIVIDUAL INCOME TAX RETURN

FOR NET INCOMES OF MORE THAN $5,000, OR SEPARATE RETURNS OF HUSBAND AND WIFE IF COMBINED NET INCOME EXCEEDS $5,000

FOR CALENDAR YEAR 1920 304890

Or for period begun JAN. 1ST., 1920, and ended DEC. 31ST., 1920

If the return is made for a period other than a calendar year, the dates of the beginning and ending of the period covered must be plainly stated in the space provided above.

PRINT PLAINLY NAME, STREET AND NUMBER, OR RURAL ROUTE, POST OFFICE, COUNTY, AND STATE

Richard B. Mellon,
6500 Fifth Avenue,
Pittsburgh, Pa.

304030

CASH	
CHECK	
M. O.	
CERT. of IND.	

(DO NOT WRITE IN THIS SPACE)

Examined by

Audited by

FIRST PAYMENT

$ 10.00

Cashier's Stamp

PAID MAR 15 1921

...(or affirm) that this return, including the accompanying schedules and statements (if any), has been examined by me, and, to the best of my knowledge and belief, is a true ...e return made in good faith, for the taxable period as stated, pursuant to the Revenue Act of 1918 and the Regulations issued under authority thereof.

(If return is made by agent, the reason therefor must be stated on this line.)

...o and subscribed before me this 14 day of March, 1921

(Signature of officer administering oath.) (Title.)

Richard B. Mellon
(Signature of individual or agent.)

6500 Fifth Avenue, Pgh., Pa.
(Address of individual or agent.)

REJECTED CLAIM LETTER DATED 4/21/21

...a citizen of ...ed States? YES

2. If not, are you a resident of the United States? *****

3. If neither, of what country are you a citizen or subject? *****

...file a ...or 1919? YES

5. If so, what address did you give on that return? SAME AS ABOVE.

6. To what Collector's office was it sent? (Give district or city and State) PITTSBURGH, PA.

...receive any adjustments during the taxable period on account of ...ment contracts through the operations of a claims board or otherwise? NO.

8. Were you married and living with wife (or husband) on the last day of your taxable period? YES

...were you on the last day of your taxable period ...ing one or more persons living in your household ...closely related to you by blood, marriage, or adoption? *******

10. How many dependent persons under 18 (or if 18 or over, incapable of self support because mentally or physically defective) were receiving their chief support from you on the last day of your taxable period? NONE

...separate return filed ...wife (or husband)? YES If so, state (a) exemption claimed $ NONE (b) Name and address entered at head of that return JENNIE K.MELLON,6500-5TH AVE.PGH.PA.

...R" if you kept no books, or books on a cash ...; "A" if you kept books on an accrual basis R

13. Did you pay during the calendar year 1920 to any individual rent, wages, salaries, or other fixed or determinable income amounting to $1,000 or over? YES (If so, secure from the Collector Forms 1096 and 1099 and file a return of information.)

...low all nontaxable income received by you during the taxable period from the following sources:

...E OF SECURITIES.	PRINCIPAL.	INTEREST.	CLASS OF SECURITIES.	PRINCIPAL.	INTEREST.	SOURCE OF COMPENSATION.	AMOUNT.
...Loan 3½% Bonds unconverted	$	$	Obligations of States and Territories, political subdivisions thereof, and the District of Columbia	$	$		$
...s of the U.S. issued before Sept. ...bligations of U. S. possessions							
...Loan 3½% Notes	137,000.	5252.20	Federal Farm Loan Bonds				

...the table below income (whether received or not) from partnerships, personal service corporations, and fiduciaries.

...AND ADDRESS OF PARTNERSHIP, PERSONAL SERVICE CORPORATION, OR TITLE OF ESTATE OR TRUST, WITH NAME AND ADDRESS OF FIDUCIARY.	2. PERIOD (ENTER 1920 OR DATE ON WHICH FISCAL YEAR ENDED).	3. INTEREST ON TAX-FREE COVENANT BONDS.	4. DIVIDENDS.	5. INTEREST ON LIBERTY BONDS, ETC., ISSUED SINCE SEPT. 1, 1917, AND WAR FINANCE CORPORATION BONDS.	6. OTHER INCOME.
...holt & Co.,Frick Bldg., Pgh., Pa.	1920	$	$	$	$ 48350.74
...verton Distilling Co., Scottdale, Pa.	1920				5960.55
...W.& R.B.Mellon,Trustees, 514 Smithfield St., Pittsburgh, Pa.	1920				39050.63
...see page 2 of instructions, Schedule C)		Enter as F (b), page 2.	Enter as E (b), page 2.	Include in G (a), page 2.	Enter in G, page 2.
		$ NONE		$	$ 93361.92

...line (a) in the table below Interest on Liberty Bonds and other obligations of the United States issued since September 1, 1917, and War Finance Corporation Bonds, received during the taxable period, including interest received through partnerships, personal service corporations, and fiduciaries. (See page 2 of instructions, Schedule I.)

	FIRST LIBERTY LOAN CONVERTED 4% BONDS OF 1932-47.	SECOND LIBERTY LOAN 4% BONDS OF 1927-42.	FIRST LIBERTY LOAN CONVERTED 4¼% BONDS OF 1932-47.	SECOND LIBERTY LOAN CONVERTED 4¼% BONDS OF 1927-42.	THIRD LIBERTY LOAN 4¼% BONDS OF 1928.	FIRST LIBERTY LOAN SECOND CONVERTED 4¼% BONDS OF 1932-47.	FOURTH LIBERTY LOAN 4¼% BONDS OF 1933-38.	___% OTHER OBLIGATIONS ISSUED SINCE SEPT. 1, 1917.	VICTORY LIBERTY LOAN 4¾% NOTES OF 1922-23.	WAR FINANCE CORPORATION 5% BONDS OF 1920.
...es	June 15. December 15.	May 15. November 15.	June 15. December 15.	May 15. November 15.	March 15. September 15.	June 15. December 15.	April 15. October 15.		June 15. December 15.	April 1. October 1.
...Interest				$ 1122.57	$ 2628.88		$ 2652.40		$ 1.16	
...rincipal				26413.40	61856.00		62410.00		25.00	

...D IT TO COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT.

of interest			$ 1122.57	$ 2628.88	$	$ 2652.40	$	$ 1.16	$
principal			26413.40	61856.00		62410.00		25.00	
ptions.		176 259.70	5000.00	--		--		xxxxxx	xxxxxx
							xxxxxx	xxxxxx	xxxxxx
		12 527.41	21413.40	8576.60		--	xxxxxx	xxxxxx	xxxxxx
	xxxxxx	18 778.77	xxxxxx	xxxxxx		xxxxxx	xxxxxx	xxxxxx	xxxxxx
	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	30000.00	xxxxxx	xxxxxx	xxxxxx
	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	
al in excess emptions			NONE	53279.40		32410.00		25.00	
le interest				2264.37		1377.43		1.16	

axable interest on all obligations as computed above in line (*l*) (enter as Item 19 below, and as Schedule I, page 2) $3642.96

amount of the Victory Liberty Loan 3¾% and 4¾% Notes originally subscribed for and still owned at the date of filing this return $ NONE

amount of the Fourth Liberty Loan 4¼% Bonds originally subscribed for and still owned at the date of filing this return $ NONE

DETACH RETURN HERE AND SEND IT

COMPUTATION OF TAX.

ncome on which tax is to be computed (from Schedule N)			$ 726727	76
Dividends (from Schedule H)	$995142	83		
Taxable interest on Liberty Bonds, etc. (from Item 16 (*l*) above)	3642	96		
Personal exemption	NONE			
TOTAL OF ITEMS 18, 19, AND 20			998785.79	
ne subject to normal tax (Item 17 minus Item 21)			$ NONE	
nt subject to normal tax at 4% (not over $4,000)				
ne subject to normal tax at 8% (Item 22 minus Item 23)			$ NONE	

25. Normal tax at 4% on amount of Item 23			$ NONE	
26. Normal tax at 8% on amount of Item 24			NONE	
27. Surtax on Item 17 (see surtax table, page 1 of instructions)			408615	77
28. TOTAL TAX			$ 408615	77
29. Less: Tax paid at source	$ 1942	49		
30. Income and profits taxes paid during taxable period to foreign countries or possessions of the United States (attach Form 1116)	--	--	$ 1942	49
31. Balance of tax due (Item 28 minus Items 29 and 30)			406673	28
32. Amount of tax paid on submission of return one-fourth			$ 101668	82

PREPARATION OF RETURN.

ou employ anyone especially to prepare or advise in the preparation of this (Answer "Yes" or "No.") NO. If so, give name and address and extent to which you received such assistance or advice

AMENDED RETURNS.

An amended return must be plainly marked "Amended" across the face of the return.

CHECKS AND DRAFTS.

Checks and drafts will be accepted only if payable at par at your Collector's office.

43

Total

SCHEDULE H.—DIVIDENDS.

[illegible] (c) thereof, $ [illegible]

SCHEDULE I.—TAXABLE INTEREST ON L[illegible]

SCHEDULE J.—TOTAL NET I[illegible]

SCHEDULE K.—DEDUCTIONS

[illegible] paid [illegible] 148224

[illegible] 28576

[redacted]

2 of Return

INDIVIDUAL RETURN OF TAXABLE INCOME

SCHEDULE A.—INCOME FROM BUSINESS OR PROFESSION.

Kind of business _____ 2. Business address _____

Total sales and income from business or professional services _____ $ _____

COST OF GOODS SOLD:

Labor	$
Material and supplies	
Merchandise bought for sale	
Other costs (list principal items and amounts at foot of page or on separate sheet)	
Plus inventory at beginning of year (see page 2 of instructions, Schedule A)	
TOTAL	$
Less inventory at end of year	
NET COST OF GOODS SOLD	$

State amount of salary to self included in Item 12 $ _____

State amount of obsolescence included in Item 16 $ _____

OTHER BUSINESS DEDUCTIONS:

12. Salaries and wages not reported as "Labor" under "Cost of goods sold"	$
13. Rent on business property in which taxpayer has no equity	
14. Interest on business indebtedness to others	
15. Taxes on business and business property	
16. Repairs, wear and tear, obsolescence, depletion, and property losses (explain in table below)	
17. Amortization of war facilities	
18. Bad debts arising from sales or professional services	
19. Other expenses (list principal items and amounts at foot of page or on separate sheet)	
20. TOTAL (Items 12 to 19, inclusive)	$
21. NET COST, PLUS TOTAL DEDUCTIONS (Item 11 plus Item 20)	$
22. NET INCOME FROM BUSINESS OR PROFESSION (Item 3 minus Item 21)	$ NONE

SCHEDULE B.—INCOME FROM SALARIES, WAGES, COMMISSIONS, BONUSES, DIRECTOR'S FEES, AND PENSIONS.

1. BY WHOM RECEIVED. (Give name.)	2. OCCUPATION.	3. NAME AND ADDRESS OF EMPLOYER.	4. AMOUNT RECEIVED.	5. EXPENSES (EXPLAIN BELOW).	
SEE SCHEDULE ATTACHED.			$	$	9624 96

NET INCOME FROM SALARIES, ETC. (total of column 4 minus total of column 5) $ _____ $ _____ $ _____

SCHEDULE C.—INCOME FROM PARTNERSHIPS, PERSONAL SERVICE CORPORATIONS, AND FIDUCIARIES (From Item 15 (a) column 6, page 1) $ 93361 92

SCHEDULE D.—PROFIT FROM SALE OF LAND, BUILDINGS, STOCKS, BONDS AND OTHER PROPERTY, AND FROM LIQUIDATING DIVIDENDS.

KIND OF PROPERTY.	2. NAME AND ADDRESS OF PURCHASER OR BROKER.	3. SALE PRICE OR LIQUIDATING DIVIDENDS.	4. DATE ACQUIRED	5. COST, OR IF ACQUIRED PRIOR TO MARCH 1, 1913, THE FAIR MARKET VALUE ON THAT DATE.	6. COST OF SUBSEQUENT IMPROVEMENTS, IF ANY.	7. DEPRECIATION.	
SEE SCHEDULE ATTACHED.		$		$	$	$	LOSS 164459 39

NET PROFIT FROM SALES (total of columns 3 and 7 minus total of columns 5 and 6) $ _____ $ _____ $ _____ $ _____ $ _____

SCHEDULE E.—INCOME FROM RENTS AND ROYALTIES.

KIND OF PROPERTY.	2. NAME AND ADDRESS OF TENANT, LESSEE, ETC.	3. AMOUNT RECEIVED.	4. REPAIRS, WEAR AND TEAR, OBSOLESCENCE, DEPLETION AND PROPERTY LOSSES.	5. INTEREST.	6. TAXES.	7. OTHER EXPENSES (EXPLAIN BELOW).	
SEE SCHEDULE ATTACHED.		92663 47	9877 --	5475 --	98477 31	29969 60	LOSS 51135 44

NET INCOME FROM RENTS AND ROYALTIES (total of column 3 minus total of columns 4, 5, 6, and 7) $ _____ $ _____ $ _____ $ _____ $ _____ $ _____

SCHEDULE F.—INTEREST ON CORPORATION BONDS CONTAINING TAX-FREE COVENANT, ON WHICH A TAX OF 2% WAS PAID AT SOURCE.

Received (a) directly, $ _____; (b) through partnerships, personal service corporations, and fiduciaries (Item 15 (a), column 3), $ _____ TOTAL $ 97124 50

SCHEDULE G.—OTHER INCOME (not including dividends, or interest on obligations of the United States).

	AMOUNT RECEIVED.
Interest on bonds, mortgages, and other obligations of domestic and resident corporations except as reported in Schedule F	$ 375 00
Interest on bonds of foreign countries and corporations, and dividends on stock of foreign corporations which are not taxable by the United States on their net incomes	6273 38
Interest on bank deposits, mortgages, etc	196785.45
Amount paid for you at source on tax-free covenant bonds	1942 49
TOTAL	$ 205376 32

SCHEDULE H.—DIVIDENDS.

Received (a) directly, $ ALL; (b) through partnerships, personal service corporations, and fiduciaries (Item 15 (a), column 4), $ _____ TOTAL $ 995142 83

SCHEDULE I.—TAXABLE INTEREST ON LIBERTY BONDS, OTHER OBLIGATIONS OF THE UNITED STATES, AND WAR FINANCE CORPORATION BONDS (from Item 15 (f), page 1) $ 3642 96

SCHEDULE J.—TOTAL NET INCOME FROM ABOVE SOURCES (Total net income less total deficits shown in above Schedules) $ 1188678 66

SCHEDULE K.—DEDUCTIONS (except those included above and contributions).

Interest paid	$ 216326 10	3. Losses by fire, storm, etc. (explain in table below)	$
Taxes paid	86201 52	4. Bad debts (explain in space at foot of page)	2125 00
		5. Amounts paid to beneficiaries, etc	$
		Business Expense	29052 19
		TOTAL	$ 333704 82

SCHEDULE L.—NET INCOME (without deducting contributions) (J minus K) $ 854973 84

SCHEDULE M.—CONTRIBUTIONS (List below names and amounts paid to each corporation) SEE SCHEDULE ATTACHED $ 128246 08

SCHEDULE N.—NET INCOME UPON WHICH TAX IS TO BE COMPUTED (L minus M) (Enter as Item 17, page 1) $ 726727 76

ENTER IN THIS TABLE DETAILS CONCERNING REPAIRS, WEAR AND TEAR, PROPERTY LOSSES, ETC., CLAIMED AS DEDUCTIONS IN SCHEDULES A, E, AND K ABOVE.

1.	2. KIND OF PROPERTY (IF BUILDINGS, STATE AND MATERIAL OF WHICH CONSTRUCTED).	3. DATE ACQUIRED.	4. AGE WHEN ACQUIRED.	5. COST, OR IF ACQUIRED PRIOR TO MARCH 1, 1913, THE FAIR MARKET VALUE ON THAT DATE.	6. REPAIRS, ORDINARY AND INCIDENTAL.	WEAR AND TEAR, OBSOLESCENCE, AND DEPLETION CHARGED OFF. 7. Rate.	8. Amount previous years.	9. Amount this year.	10. LOSSES NOT COMPENSATED FOR BY INSURANCE OR OTHERWISE. CAUSE AND HOW AMOUNT WAS ARRIVED AT.
				$	$		$	$	

EXPLANATION OF DEDUCTIONS claimed in Schedule A, Items 7 and 19; Schedule B, column 5; Schedule E, column 7; Schedule K, Item 4; and Schedule M. (Attach separate sheet if necessary.)

ITEM 7-SCHEDULE "E" - WATER RENTS, TAXES, ETC. PAID BY TENANTS, ALSO COMMISSIONS PAID AND LOSSES DUE TO TEARING DOWN BUILDINGS.

ITEM 4 - SCHEDULE "K" - LOANS NOT COLLECTIBLE.

SCHEDULE "F" - INCOME FROM SALARIES, WAGES, COMMISSIONS, BONUSES, DIRECTORS FEES, ETC.

Received by	Occupation	Employer & Address		Amount Received.
Richard B.Mellon,	Director,	Union Tr. Co.,	Pittsburgh, Pa.	$ 800.00
Do.	Director,	Gulf Oil Corp.	Do.	100.00
Do.	Director,	Union Savings Bank,	Do.	200.00
Do.	Director,	Mellon Natl. Bank,	Do.	200.00
Do.	Managing Partner	A. Overholt & Co.	Do.	2,499.96
Do.	Director,	Aluminum Co. of Amer.	Do.	5,000.00
Do.	Director	Federal Reserve Bank,	Do.	70.00
Do.	Director,	Penna. Wtr. Co.	Wilkinsburg, Pa.	5.00
Do.	Treasurer	Ligonier Valley RR.Co.,	Ligonier, Pa.	1,050.00
				$ 9,824.96

The omitted portions of said Defendant's Exhibits "A" and "B", together with the parts set forth above, are also incorporated by reference and made parts hereof, the original said exhibits in certified photostatic form having been duly certified to the Circuit Court of Appeals with the transcript of record and as part thereof pursuant to stipulation between counsel and order of this court that said exhibits be sent up in their original certified photostatic form with, and as part of, the transcript of record, as appears elsewhere herein.

Mr. Eustace:

Defendant offers in evidence, as Defendant's Exhibit "C", certified photostatic copy of a letter dated February 9, 1922, to the Commissioner of Internal Revenue from Albert W. Smith, acting revenue agent in charge, Pittsburgh, Pennsylvania, transmitting revenue agent's report dated November 8, 1921, submitted to Internal Revenue Agent in Charge, Pittsburgh, Pennsylvania, by Albert W. Smith, internal revenue agent, *in re* A. W. Mellon, Pittsburgh, Pennsylvania.

Mr. Booth:

If the Court, please, I would like an offer on this revenue agent's report.

The Court:

What is the purpose?

Mr. Eustace:

The purpose of this is to show what the Commissioner did in reaching his determination of the de-

IF RETU...N IS FOR CALENDAR YEAR 1920 FILE IT WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1921

IF FOR A PERIOD OTHER THAN A CALENDAR YEAR THE RETURN SHOULD BE FILED ON OR BEFORE THE 15TH DAY OF THE THIRD MONTH FOLLOWING THE CLOSE OF SUCH PERIOD

I swear (or affirm) that this r
and complete return made in goo

Sworn to and subscribed befo

(Signature of officer a

1. Are you a citizen of the United States? YES
4. Did you file a return for 1919? YES
7. Did you receive any adjustm Government contracts throug
9. If not, were you on the last supporting one or more person who are closely related to you
11. Was a separate return filed by your wife (or husband)?
12. Write "R" if you kept no boo basis; or "A" if you kept boo
14. Enter below all nontaxable

CLASS OF SECURITIES.

First Liberty Loan 3½% Bonds unconverte
Other obligations of the U.S. issued before S 1, 1917, and obligations of U. S. possession

Victory Liberty Loan 3¾% Notes

15. Enter in the table below incom

1. NAME AND ADDRESS OF PARTNERS TRUST, WH

File

A.Overholt & Co.
West Overton Dist
J.R.-A.W.& R.B.Me
St.

(a) Totals (see page 2 of instructi

16. Enter on line (a) in the table by you during the taxable

OBLIGATIONS	FIRST LIBE LOAN CONVE 4% BONDS 1932-47
INTEREST DATES	June 15, December
(a) Amount of interest	$ 27
(b) Average principal	
Exemptions.	
(c) $5,000	
(d) 20,000	
(e) 30,000	
(f) 45,000	
(g) 30,000	x x x x x
(h) 30,000	x x x x x
(i) 5,000	x x x x x
(j) Principal in excess of exemptions	
(k) Taxable interest	

(l) Total taxable interest on all o

State the amount of the Victory L

State the amount of the Fourth L

17. Net income on which tax is to
18. Less: Dividends (from Sched
19. Taxable interest on Lib (from Item 16 (l) abo
20. Personal exemption
21. TOTAL OF ITEMS 18, 19,
22. Balance subject to normal tax
23. Amount subject to normal tax
24. Balance subject to normal tax

PREPA

Did you employ anyone ex return? (Answer "Yes" or "No state the extent to which you re

SCHEDUL

1. Kind of b

3. Total sales

COST OF GO

4. Labor

5. Material an

6. Merchandi
7. Other costs
foot of pa
8. Plus invent
of instruc

9. To

10. Less invent

11. Net Cost

State an
Item 12
State an
Item 1

SCHEDULE

1.

Net Inco

SCHEDULE C.—

SCHEDULE D.—

1. Kind of Prop

S

Net Prop

SCHEDUL

1. Kind of Prop

S

Net Inco
of colum

SCHEDULE F.—
Received

SCHEDUL

1. Interest on
2. Interest on
States on

3. Interest on

4. Amount pai

5.

Total

SCHEDUL
Received

SCHEDULE I.—

SCHEDUL

SCHEDUL

1. Interest pai

2. Taxes paid

SCHEDUL

SCHEDUL

SCHEDUL

ENTE

1. Refer to "A," "E," or "K."	2. Kin

EXPLANATION

ITEM 7—

ITEM 4

ficiency, based upon the information contained in letters which we will later offer from the Commissioner to the taxpayer; to be connected up by other exhibits.

Mr. Booth:

If the Court please, this is objected to on the record, that the report of the revenue agent is hearsay; that the action of the Commissioner is shown by his sixty-day letter; and this report besides being hearsay is irrelevant and generally immaterial, it contains a lot of matters which are entirely outside the scope of this case.

Mr. Eustace:

I might say further in connection with this offer that the deficiency letter which was sent to the taxpayer, plaintiff by the Commissioner of Internal Revenue was made up from his report, and refers to the report, the letter later to be offered in evidence.

Mr. Booth:

If the Court please, this report, or any report of a revenue agent, is purely hearsay testimony. The revenue agent has not been called to identify it; we do not know where he gets his figures; and the report covers the entire income of the plaintiff, irrespective of whether the other items are involved in this suit; this report is not the determination of the Commissioner, and the only determination of the Commissioner is set forth in his sixty-day letter; the report is entirely hearsay evidence, and is not competent.

The Court:

Is it attached in any way to the Commissioner's findings?

Mr. Eustace:

It is referred to in the Commissioner's letter which will later be introduced in evidence, and figures in that letter were taken from this report, as will be shown by the deficiency letter itself.

The Court:

What does it tend to prove?

Mr. Eustace:

It shows what the Commissioner did in determining the deficiency, and the correctness of the tax. It refutes the allegations of the statement of claim, which have been denied in the affidavit of defense, going to the question of whether or not these were partnerships and as to whether or not the plaintiff has now changed front.

The Court:

But how would that show any change of front, a letter by the agent? It would not be an action of the plaintiff at all.

Mr. Eustace:

It connects up with the action of the Commissioner; it is offered for the purpose of showing what the Commissioner did; it connects up with the protest filed by the plaintiff to the action of the Commissioner.

Mr. Frazer:

This doesn't show what the Commissioner did, if the Court please. We have no objection to his putting in the final report of the Commissioner, but this is purely hearsay.

The Court:

It would not, of course, prove the facts alleged in it at all; it could not be used for that purpose in any way whatsoever. I cannot see what effect it would have in the case. It seems to me now it must be excluded.

Mr. Eustace:

Note an exception.

The Court:

Yes.

Mr. Eustace:

At this time defendant offers certified copy of the letter dated February 9, 1922, to the Commissioner of Internal Revenue, from Albert W. Smith, acting revenue agent in charge, Pittsburgh, Pennsylvania, transmitting revenue agent's report dated November 8, 1921, with Exhibit "A" attached, submitted to the Internal Revenue Agent in Charge, Pittsburgh, Pennsylvania, by Albert W. Smith, internal revenue agent in charge, *re* R. B. Mellon, Pittsburgh. This is offered as Defendant's Exhibit "D".

Mr. Booth:

Same objection; it is exactly a similar report to the other one, covering the individual income tax return of individual R. B. Mellon.

The Court:

The objection is sustained, and exception noted.

(Defendant's Exhibits "C" and "D" were subsequently admitted as hereinafter shown.)

Mr. Eustace:

At this time the defendant offers in evidence certified photostatic copy of a letter dated February 21, 1927, with statement attached, to Mr. A. W. Mellon, Pittsburgh, Pennsylvania, from D. H. Blair, Commissioner, being deficiency letter relating to the 1920 income of plaintiff. This is offered as Defendant's Exhibit "E".

Mr. Booth:

If the Court please, this sixty-day letter shows nothing that adds to this case, and it is objected to on the ground that it is redundant, and therefore immaterial. The pleadings and the evidence so far show what the Commissioner did with respect to the 1920 tax of the plaintiff A. W. Mellon.

The Court:

I will overrule the objection, and note an exception. It may be admitted.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "E".

February 21, 1927.

Mr. A. W. Mellon,
Woodland Road,
Pittsburgh, Pa.

Sir:

The determination of your income tax liability for the years 1919 and 1920, pursuant to an exam-

ination of your books of account and records, as set forth in office letter dated December 16, 1926, has been changed as a result of your protest to disclose a deficiency in tax amounting to $384,580.45. The adjustments are shown in detail in the attached statement.

In accordance with the provisions of Section 274 of the Revenue Act of 1926, you are allowed 60 days from the date of mailing of this letter within which to file a petition for the redetermination of this deficiency. Any such petition must be addressed to the United States Board of Tax Appeals, Earle Building, Washington, D. C., and must be mailed in time to reach the Board within the 60-day period, not counting Sunday as the sixtieth day.

Where a taxpayer has been given an opportunity to file a petition with the United States Board of Tax Appeals and has not done so within the 60 days prescribed and an assessment has been made, or where a taxpayer has filed a petition and an assessment in accordance with the final decision on such petition has been made, the unpaid amount of the assessment must be paid upon notice and demand from the Collector of Internal Revenue. No claim for abatement can be entertained.

If you acquiesce in this determination and do not desire to file a petition with the United States Board of Tax Appeals, you are requsted to execute a waiver of your right to file a petition with the United States Board of Tax Appeals on the inclosed Form A, and forward it to the Commis-

sioner of Internal Revenue, Washington, D. C., for the attention of IT:PA:PYA-WSL. In the event that you acquiesce in a part of the determination, the waiver should be executed with respect to the items to which you agree.

Respectfully,

D. H. Blair,
Commissioner.

By (Signed) C. R. Nash,
Assistant to the Commissioner.

Inclosures:
Statement
Form A
Form 882

STATEMENT

February 21, 1927

A. W. Mellon
Pittsburgh, Pa.

	Deficiency	
1919	$194,160.75	Waiver expires December 31, 1927
1920	190,419.70	Waiver expires December 31, 1927
	384,580.45	

The above deficiency in tax for 1919 and 1920 is the result of an audit of your returns for the respective years in connection with the report of the

Internal Revenue Agent at Pittsburgh, Pennsylvania, dated November 8, 1921, and a conference held in this office on February 19, 1927, with your representative.

In the protests of January 29 and February 11, 1927, filed in your behalf, exception is taken to the disallowance of deductions claimed in your returns for contributions to the Citizen's Committee on the City Plan of Pittsburgh. In view of a recent ruling of the Bureau, a copy of which is attached to the protest of February 11, 1927, these deductions have been allowed.

In the protest of January 29, 1927, exception is also taken to the refusal of this office to allow as a deduction for the years involved, your aliquot part of an alleged value of $1,364,330.20 as of March 1, 1913, for the goodwill, trade marks, trade names, etc. of A. Overholt & Company. This item, however, is not mentioned in the subsequent protest of February 11, 1927. In this connection you are advised that no deduction for obsolescence is allowable under a recent decision of the U. S. District Court in the case of the Red Wing Malting Company.

For 1919 your net taxable income as shown in office letter of December 16, 1926, has been reduced by $1,350.00, representing contributions to the Citizen's Committee previously disallowed, resulting in a corrected net income of $2,998,417.73 and corrected tax liability of $1,877,670.43. Inasmuch as 1,683,509.68 was previously assessed, the deficiency is $194,160.75.

The net taxable income for 1920 has been reduced by $7,400.00, contributions made in that year to the Citizen's Committee. This adjustment discloses a corrected net income of $1,813,876.62 instead of $1,821,276.62 indicated in letter dated December 16, 1926, and corrected tax liability of $1,110,197.56. Since $919,777.86 was previously assessed, the deficiency disclosed is $190,419.70.

The assessments are in addition to all other outstanding and unpaid assessments appearing upon the Collector's lists.

Payment of the tax should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

A copy of this letter has been furnished your representative, Mr. W. A. Seifert.

(Signed) C. R. Nash.

Mr. Eustace:

Defendant offers in evidence, as Defendant's Exhibit "F", a certified photostatic copy of letter dated February 21, 1927, to Mr. Richard B. Mellon, Pittsburgh, Pennsylvania, from D. H. Blair, Commissioner, being a deficiency letter for the 1920 individual tax of R. B. Mellon.

Mr. Booth:

Same objection.

The Court:

Objection overruled; exception noted.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "F".

Feb. 21, 1927.

Mr. Richard B. Mellon,
514 Smithfield Street,
Pittsburgh, Pa.

Sir:

The determination of your income tax liability for the taxable years 1919 and 1920 pursuant to an examination of your books of account and records, as set forth in office letter dated December 6, 1926, has been changed as a result of your protest, to disclose a deficiency in tax amounting to $335,617.43 for the years 1919 and 1920. The adjustments are shown in detail in the attached statement.

In accordance with the provisions of Section 274 of the Revenue Act of 1926, you are allowed 60 days from the date of mailing of this letter within which to file a petition for the redetermination of this deficiency. Any such petition must be addressed to the United States Board of Tax Appeals, Earle Building, Washington, D. C., and must be mailed in time to reach the Board within the 60-day period, not counting Sunday as the sixtieth day.

Where a taxpayer has been given an opportunity to file a petition with the United States Board of Tax Appeals and has not done so within the 60 days prescribed and an assessment has been made, or where a taxpayer has filed a peti-

tion and an assessment in accordance with the final decision on such petition has been made, the unpaid amount of the assessment must be paid upon notice and demand from the Collector of Internal Revenue. No claim for abatement can be entertained.

If you acquiesce in this determination and do not desire to file a petition with the United States Board of Tax Appeals, you are requested to execute a waiver of your right to file a petition with the United States Board of Tax Appeals on the inclosed Form A, and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the attention of IT:PA:PYA-60-D-WSL. In the event that you acquiesce in a part of the determination, the waiver should be executed with respect to the items to which you agree.

Respectfully,

D. H. Blair,
Commissioner.

By (Signed) C. R. Nash,
Assistant to the Commissioner.

Inclosures:
Statement
Form A.

STATEMENT

Feb. 21, 1927

In re: Richard B. Mellon
Deficiency

1919	$160,357.73	(Waiver expires 12/31/27)
1920	175,529.70	(Waiver expires 12/31/27)
	$335,617.43	

The above deficiencies in tax for 1919 and 1920 are the result of the audit of your returns for the respective years in connection with the report of the Internal Revenue Agent at Pittsburgh, Pennsylvania, dated November 8, 1921, and a conference held in this office on February 16, 1927, with your representative.

In the protests of January 29, and February 11, 1927, filed in your behalf, exception is taken to the disallowance of deduction claimed in your returns for contributions to the Citizen's Committee on the City Plan of Pittsburgh. In view of a recent ruling of the Bureau, a copy of which is attached to the protest of February 11, 1927, these deductions have been allowed.

In the protest of January 29, 1927, exception is also taken to the refusal of this office to allow as a deduction for the years involved, your aliquot part of an alleged value of $1,364,330.20 as of March 1, 1913, for the goodwill, trade marks, trade names, etc. of A. Overholt & Company. This item, however, is not mentioned in the subsequent protest of February 11, 1927. In this connection

you are advised that no deduction for obsolescence is allowable under a recent decision of the U. S. District Court in the case of the Red Wing Malting Company.

The above adjustment for allowable contributions results in no change in net taxable income for 1919 since 15% of your net income without the benefit of a deduction for contributions has already been allowed in accordance with Section 214 (a) (11), Revenue Act of 1918.

For 1920 your net taxable income as shown in office letter dated December 16, 1926, has been reduced by $8,400.00, representing contributions to the Citizen's Committee previously disallowed, resulting in a corrected net income of $1,000,459.28 and corrected tax liability of $581,932.98. Inasmuch as $406,673.28 was previously assessed, the deficiency in tax is $175,259.70.

The assessments are in addition to all other outstanding and unpaid assessments appearing upon the Collector's lists.

Payment of the tax should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

A copy of this letter has been furnished your representative, Mr. W. A. Seifert.

(Signed) C. R. Nash,

Thereupon counsel for defendant offered in evidence certified photostatic copy of letter dated Decem-

ber 16, 1926, to A. W. Mellon, Pittsburgh, from the Assistant to the Commissioner, being Bureau letter which immediately preceded the letter marked Exhibit "E", and which is referred to in said Exhibit "E", relating to the income tax of said plaintiff for the year 1920; the same being marked Defendant's Exhibit "G". Counsel stated it was offered for the purpose of meeting the denials of the allegations in the amended affidavit of defense, as set forth in the Reply, particularly in connection with Paragraph 4 of the Second Defense, which is denied by the Reply; and also Paragraph 11 of the Second Defense, part of which is denied by the Reply.

Mr. Booth:

I have no objection to the second portion of the offer; but I object to it, as not proof at all of the first part.

The Court:

You do not object to it in part, do I understand you correctly? That will be admitted then, and consideration given to it later.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "G".

December 16, 1926.

Mr. A. W. Mellon,
Woodland Road,
Pittsburgh, Pa.

Sir:

A reaudit of your income tax returns for 1919 and 1920 in connection with the report of the Internal Revenue Agent at Pittsburgh dated November 8, 1921, discloses an aggregate deficiency in tax of $390,267.95, details which are shown in the attached statement.

The recommendations of the Revenue Agent above indicated have been approved by this office after consideration of the protest filed with this office in connection therewith. If you acquiesce in the proposed adjustments as shown in this letter and the accompanying statement, you are requested to execute the enclosed form and forward it to this office for the attention of IT:PA:PYA:ARM. In the event that you acquiesce in a part of such proposed adjustments the form should be executed with respect to the items to which you agree.

If, however, you do not acquiesce in all of the proposed changes, you will be afforded an opportunity for hearing in the Unit at Washington upon request.

If no reply is received within ten days from the date of this letter it will be assumed that no hearing is desired and the Bureau will proceed to close the case in the usual manner.

If after said hearing, and consideration by this office of evidence or briefs of argument submitted, this office finally determines that there is a deficiency, you will be advised thereof by registered mail in accordance with the provisions of Section 274 of the Revenue Act of 1926. Should you not agree to the deficiency as finally determined, you will be allowed sixty days from the date of mailing of the registered letter (not counting Sunday as the sixtieth day) in which to file a petition with the United States Board of Tax Appeals for a redetermination of the deficiency.

Respectfully,

Assistant to the Commissioner.

Enclosures:
Statement
Form 7858

STATEMENT

December 16, 1926

1919 Additional Tax	$195,038.25
(Waiver expires December 31, 1927.)	
1920 Additional Tax	195,229.70
(Waiver expires December 31, 1927.)	
Total	$390,267.95

The report of the examining officer has been approved with the following exceptions:

1919

Under the provisions of Treasury Decision 3685, the credit for 2% tax paid at source amounting to $4,811.09 has been eliminated from gross income.

In the reaudit of the partnership return of A. Overholt & Company, deduction for obsolescence of good will has been disallowed. This is in conformity with decision of the United States District Court for the District of Minnesota in the Red Wing Malting Company case recently upheld by the Circuit Court of Appeals. Deduction of $12,500 deferred organization expense has been disallowed since it was recommended for allowance in the audit of A. Overholt & Company (corporation) for 1918. These adjustments reduce your individual loss from $133,852.45, as shown in the report, to $122,980.92.

Deduction for contributions has been reduced by donations made to the following organizations in the amounts indicated:

Civic Club of Allegheny County	$ 100.00
Citizen's Committee on City Plan of Pittsburgh	1,350.00
National Federation of Construction Industries	250.00
Total	$1,700.00

The above contributions have been disallowed as deductions for the reason that they were not made to associations organized and operated exclusively for religious, charitable, scientific, educational purposes, etc. as outlined under Section 214 (a) (11) of the Revenue Act of 1918.

Revised net income is as follows:

Net income as shown by agent's report . . $2,992.007.29

Plus: Decrease in partnership loss	$10,871.53		
Contributions disallowed		1,700.00	
		$12,571.53	
Less: Credit 2% tax paid at source		4,811.09	7,760.44
Revised income			$2,999,767.73
Dividends	$3,290,568.02		
Liberty Bond Interest		15,924.86	
Personal Exemption		2,400.00	3,308,892.88
Income subject to normal tax			None
Surtax on $2,999,767.73	$1,883,359.02		
Less tax paid at source		4,811.09	
		1,878,547.93	
Less tax previously assessed		1,683,509.68	
Additional tax		195,038.25	

1920

The following contributions have been disallowed for the reason that they were not made to corporations operated exclusively for religious, charitable, scientific, or educational purposes, etc., as outlined under Section 214 (a) (11) of the Revenue Act of 1918:

Civic Club of Allegheny County	$ 100.00
Citizens Committee on City Plan of Pittsburgh	7,400.00
Wilkinsburg Civic Club	10.00
Choate Memorial Building, Wallingford, Conn.	15,000.00
Total	$22,510.00

Upon a reaudit of the partnership return of A. Overholt & Company, the deduction for obsolescence of good will has been disallowed. Your income from this source has accordingly been increased from $205,754.62, as shown by the agent, to $281,779.95.

In accordance with Treasury Decision 3685, the 2% tax paid at the source on tax-free-covenant bonds amounting to $2,332.24 has been excluded from gross income.

A recomputation of your tax follows:

Net income as shown by Agent's report		$1,725,073.53
Plus: Increase in partnership income	$76,025.33	
Contributions disallowed	22,510.00	
	98,535.33	
Less: 2% tax paid at source	2,332.24	96,203.09
Corrected net income subject to surtax		$1,821,276.62
Personal exemptions	$ 2,200.00	
Dividends	3,353,819.92	3,356,019.92

Income subject to normal tax		None
Surtax on $1,821,276.62	$1,117,339.80	
Less 2% tax paid at source..	2,332.24	
Balance	1,115,007.56	
Less tax previously assessed	919,777.86	
Further tax due	195,229.70	

This communication supersedes office letter dated March 8, 1923.

These proposed assessments are in addition to all outstanding and unpaid assessments appearing upon the Collector's lists.

In the event that you forward to this office a protest against any or all of the adjustments set forth in this communication, the statement of facts upon which you base your protest must be signed and sworn to by you.

Payment of the tax should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

Mr. Eustace:

Defendant offers in evidence certified photostatic copy of letter dated December 16, 1926, to Mr. Richard B. Mellon, Pittsburgh, Pennsylvania, from C. R. Nash, Assistant to the Commissioner, as Defendant's Exhibit "H".

Mr. Booth:

For the same purpose?

Mr. Eustace:

Same purpose.

Mr. Booth:

Admitted for the second purpose, and objected to for the first purpose.

The Court:

Well, it may be admitted, and consideration given to it later.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "H".

December 16, 1926.

Mr. Richard B. Mellon,
514 Smithfield Street,
Pittsburgh, Pa.

Sir:

A reaudit of your income tax returns for 1919 and 1920 in connection with the Internal Revenue Agent's report dated November 8, 1921, discloses an aggregate deficiency of $341,656.37, the details of which are shown in the attached statement.

The recommendations of the Revenue Agent above indicated have been approved by this office after consideration of the protest filed in connection therewith. If you acquiesce in the proposed adjustments as shown in this letter and the accompanying statement, you are

requested to execute the enclosed form and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the attention of IT:PA:PYA—ARM. In the event that you acquiesce in a part of such proposed adjustments the form should be executed with respect to the items to which you agree.

If, however, you do not acquiesce in all of the proposed changes, you will be afforded an opportunity for hearing in the Unit at Washington on request.

If no reply is received within 10 days from the date of this letter it will be assumed that no hearing is desired and the Bureau will proceed to close the case in the usual manner.

If after said hearing and consideration by this office of evidence or briefs of argument submitted, the Commissioner finally determines that there is a deficiency, you will be advised thereof by registered mail in accordance with the provisions of Section 274 of the Revenue Act of 1926. Should you not agree to the deficiency as finally determined by the Commissioner, you will be allowed 60 days from the date of mailing of the registered letter (not counting Sunday as the sixtieth day) in which to file a petition with the United States Board of Tax Appeals for a redetermination of the deficiency.

Respectfully,

(Signed) C. R. Nash,
Assistant to the Commissioner.

Enclosures:
Statement
Form A

STATEMENT.

In re: R. B. Mellon.

		Deficiency
1919	$160,357.73	(Waiver expires December 31, 1927.)
1920	181,298.64	(Waiver expires December 31, 1927.)
	341,656.37	

The report of the examining officer has been approved with the following exceptions:

1919

Your individual loss through A. Overholt and Company, partnership, has been reduced from $133,852.45 to $122,980.92. This results from a reaudit of the partnership return in which obsolescence of good will has been denied in view of the decision of the United States District Court for the District of Minnesota in the Red Wing Malting Company case and deduction for organization expense has also been disallowed.

In accordance with Treasury Decision 3685, the credit for 2% tax paid at source has been excluded from gross income.

The deductions for contributions has been increased from $111,907.64 to $113,222.38 or to 15% of the revised net income.

The revised net income is as follows:

Net income as shown by Agent			$ 634,143.3
Plus: Decrease in partnership loss		$10,871.53	
Less: 2% tax paid at source	$ 2,106.60		
Increased contributions	1,314.74	3,421.34	7,450.1
Corrected Net Income..			$ 641,593.4
Dividends	$1,03[illegible]651.78		
Liberty Bond Interest	12,757.20		1,047,408.9
No income subject to normal tax			—
Surtax on $641,593.50			$ 354,129.5
Less 2% tax paid at source			2,106.6
			352,023.2
Tax previously assessed			191,665.4
Additional tax			160,357.7

1920

The following contributions have been disallowed as deductions for the reason that they were not made to associations organized and operated exclusively for religious, charitable, scientific, educational purposes, etc. as outlined under Section 214 (a) (11) of the Revenue Act of 1918.

Citizens Committee on City Plan of Pittsburgh	$8,400.00
Urban League of Pittsburgh	50.00
Total	8,450.00

Upon a reaudit of the partnership return of A. Overholt & Company, the deduction for obsolescence of good will has been disallowed. Your income from this source has accordingly been increased from $205,754.62, as shown by the agent to $281,779.95.

In accordance with Treasury Decision 3685, the 2% tax paid at source on tax-free-covenant bonds amounting to $1942.49 has been excluded from gross income. A recomputation of tax follows:

Net income as shown by agent			$ 926,326.44
Plus: Increase in partnership income		$76,025.33	
Contributions disallowed		8,450.00	
		$84,475.33	
Less: 2% tax paid at source		1,942.49	82,532.84
Corrected net income			$1,008,859.28
Less dividends	$ 995,142.83		
Liberty Bond Interest	3,642.96		998,785.79
Amount subject to normal tax			10,073.49

Amount subject to normal tax at 4%	4,000
Amount subject to normal tax at 8%	6,073
Normal tax at 4% ..	160
Normal tax at 8% ..	485
Surtax	589,268
Total	$ 589,914
Less tax paid at source	1,942
Balance	$ 587,971
Previously assessed	406,673
Further tax due ...	181,298

This communication supersedes office letter dated March 1923.

These proposed assessments are in addition to all outstanding and unpaid assessments appearing upon the Collector's lists.

In the event that you forward to this office a protest against any or all of the adjustments set forth in this communication, the statement of facts upon which you base your protest must be signed and sworn to by you.

Payment of the tax should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

Mr. Eustace:

Defendant offers in evidence Defendant's Exhibit "I", being a certified photostatic copy letter dated December 20, 1922, to Mr. A. W. Mellon from Deputy Commissioner, being the Bureau letter which immediately preceded the letter just admitted as Exhibit "G".

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "I".

December 20, 1922.

Mr. A. W. Mellon,
Woodland Road,
Pittsburgh, Pa.

Sir:

An examination of your income tax returns and of your books of account and records for the years 1919 and 1920, discloses an additional tax liability for the years 1919 and 1920, aggregating $328,975.47, as shown in detail in the attached statement.

In accordance with the provisions of Section 250 (d) of the Revenue Act of 1921, you are granted thirty days within which to file an appeal and show cause or reason why this tax or deficiency should not be paid. No particular form of appeal is required, but if filed it must set forth specifically the exceptions upon which it

is taken, shall be under oath, contain a statement that it is not for the purpose of delay, and the facts and evidence upon which you rely must be fully stated. The appeal, if filed, must be addressed to the Commissioner of Internal Revenue, Washington, D. C., for the specific attention of IT:SA:CCG, and will be referred to the Income Tax Unit before transmittal to the agency designated for the hearing of such appeals.

You may, if you desire, request a conference before the Income Tax Unit in connection with the appeal, to be held within the period prior to the expiration of five days after the time prescribed for the filing of the appeal. If the Income Tax Unit is unable to concede the points raised in your appeal, it will be transmitted, together with the recommendation of the Income Tax Unit, to such agency as the Commissioner may designate for final consideration.

Where a taxpayer has been given an opportunity to appeal and has not done so, as set forth above, and an assessment has been made, or where a taxpayer has appealed and an assessment in accordance with the final decision on such appeal has been made, no claim in abatement of the assessment will be entertained.

Payment should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

Respectfully,

Deputy Commissioner.

SUMMARY, DECEMBER 20, 1922.

1919 Additional tax	$148,869.20
1920 Additional tax	180,106.27
Total additional tax	$328,975.47

The revenue agent's report has been approved as submitted with the exception of adjustments made to the distributive share from A. Overholt and Company, partnership, which are fully explained in statement of Distributive Interest attached.

The deduction for obsolescence of good will has been computed in accordance with Advisory Tax Board Recommendation 44, using as a basis, the average earnings for the years 1910, 1911 and 1912, attributing a ten per cent return to the average tangible assets for the same period and capitalizing the remainder, as the average return attributable to good will, at fifteen per cent.

This computation discloses a value of good will as of March 1, 1913 of $435,575.00 which has been apportioned as follows:

1918	$203,886.10
1919	222,421.20
1920	9,267.70
	$435,575.00

Year ended December 31, 1919

Net loss for normal tax shown by agent	$ 314,485.59

Loss—A. Overholt & Co. as shown in attached schedule	$ 197,121.32		
Loss—A. Overholt & Co. as shown by agent	133,852.45		63,268.87
Corrected loss for normal tax			$ 377,754.46
Dividends received	$3,290,568.02		
U. S. Bond interest	15,924.86		3,306,492.88
Corrected net income for surtax			$2,928,738.42
Normal tax	None		
Surtax	$1,837,189.97		
Credit 2% Tax Free Interest	4,811.09		
Total tax	$1,832,378.88		
Tax previously assessed	1,683,509.68		
Additional tax due	$ 148,869.20		

Year ended December 31, 1920

Net income for surtax shown by agent			$1,725,073.53
Income—A. Overholt & Co. as shown in attached schedule	$ 278,690.89		
Income—A. Overholt & Co. as shown by agent	205,754.62		72,936.27
Corrected net income for surtax			$1,798,009.80

Normal tax	None
Surtax	$1,102,216.37
Credit 2% Tax Free Interest	2,332.24
Total tax	$1,099,884.13
Tax previously assessed	919,777.86
Additional tax due	$ 180,106.27

STATEMENT OF DISTRIBUTIVE INTEREST

A. Overholt & Company

1919

Net loss reported by agent		$ 397,094.86
Obsolescence of good will corrected	$ 222,421.20	
Obsolescence of good will shown by agent	20,114.60	202,306.60
		$ 599,401.46
Lawyer's fees allowed by agent disallowed and deducted in 1918 corporation return		12,500.00
Corrected loss to be distributed		$ 586,901.46

	Loss	*L. B. Interest*	*Total*
A. W. Mellon ..	$195,633.82	$ 1,487.50	$ 197,121.32
R. B. Mellon...	195,633.82	1,487.50	197,121.32
H. C. Frick ...	195,633.82	1,487.50	197,121.32

1920		
Net income reported by agent		$ 617,263.8
Obsolescence of good will shown by agent	$ 228,076.01	
Obsolescence of good will corrected	9,267.20	218,808.8
Corrected income to be distributed		$ 836,072.0
A. W. Mellon	$ 278,690.89	
R. B. Mellon	278,690.89	
H. C. Frick	278,690.88	

Mr. Eustace:

Defendant offers in evidence Defendant's Exhil "J", being a certified photostatic copy of a letter dat December 20, 1922, to Mr. R. B. Mellon from t Deputy Commissioner.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in e dence is in words and figures as follows:

Defendant's Exhibit "J".

December 20, 1922.

Mr. R. B. Mellon,
6500 Fifth Avenue,
Pittsburgh, Pa.

Sir:

An examination of your income tax returns and your books of account and records for the years 19

and 1920 discloses an additional tax liability for the years 1919 and 1920, aggregating $295,279.99, as shown in detail in the attached statement.

In accordance with the provisions of Section 250 (d) of the Revenue Act of 1921, you are granted thirty days within which to file an appeal and show cause or reason why this tax or deficiency should not be paid. No particular form of appeal is required, but if filed it must set forth specifically the exceptions upon which it is taken, shall be under oath, contain a statement that it is not for the purpose of delay, and the facts and evidence upon which you rely must be fully stated. The appeal, if filed, must be addressed to the Commissioner of Internal Revenue, Washington, D. C., for the specific attention of IT:SA:CCG, and will be referred to the Income Tax Unit before transmittal to the agency designated for the hearing of such appeals.

You may, if you desire, request a conference before the Income Tax Unit in connection with the appeal to be held within the period prior to the expiration of five days after the time prescribed for the filing of the appeal. If the Income Tax Unit is unable to concede the points raised in your appeal, it will be transmitted, together with the recommendation of the Income Tax Unit, to such agency as the Commissioner may designate for final consideration.

Where a taxpayer has been given an opportunity to appeal and has not done so, as set forth above, and an assessment has been made, or where a taxpayer has appealed and an assessment in accordance with the

final decision on such appeal has been made, no claim in abatement of the assessment will be entertained.

Payment should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

Respectfully,

(Signed) *Deputy Commissioner.*

SUMMARY, DECEMBER 20, 1922.

1919 Additional tax	$120,857.54
1920 Additional tax	174,422.45
Total additional tax	$295,279.99

The revenue agent's report has been approved as submitted with the exception of adjustments made to the distributive share from A. Overholt and Company, partnership, which are fully explained in Statement of Distributive Interest attached.

The deduction for obsolescence of good will has been computed in accordance with Advisory Tax Board Recommendation 44, using as a basis, the average earnings for the years 1910, 1911 and 1912, attributing a ten per cent return to the average tangible assets for the same period and capitalizing the remainder, as the average return attributable to good will, at fifteen per cent.

This computation discloses a value of good will as of March 1, 1913 of $435,575.00 which has been apportioned as follows:

1918	$203,886.10
1919	222,421.20
1920	9,267.70
	$435,575.00

Year ended December 31, 1919

Net income for surtax shown by agent		$ 643,143.30
Loss—A. Overholt & Co. shown in attached schedule	$ 197,121.32	
Loss—A. Overholt & Co. shown by agent	133,852.45	63,268.87
Corrected net income for surtax		$ 579,874.43
Normal tax	None	
Surtax	$ 314,629.64	
Credit 2% Tax Free Interest	2,106.61	
Total tax	$ 312,523.03	
Tax previously assessed	191,665.49	
Additional tax due	$ 120,857.54	

Year ended December 31, 1920

Net income for surtax shown by agent	$ 926,326.44

Income—A. Overholt & Co. shown in attached schedule	$ 278,690.89	
Income—A. Overholt & Co. shown by agent	206,754.62	72,936.27
Corrected net income for surtax		$ 999,262.71
Normal tax	None	
Surtax	$ 583,038.22	
Credit 2% Tax Free Interest	1,942.49	
Total tax	$ 581,095.73	
Tax previously assessed	406,673.28	
Additional tax due	$ 174,422.45	

STATEMENT OF DISTRIBUTIVE INTEREST

A. Overholt & Company

1919

Net loss reported by agent		$ 397,094.86
Obsolescence of good will corrected	$ 222,421.20	
Obsolescence of good will shown by agent	20,114.60	202,306.60
		$ 599,401.46
Lawyer's fees allowed by agent disallowed and deducted in 1919 corporation return		12,500.00

Corrected loss to be distributed			$ 586,901.46
	Loss	*L. B. Interest*	*Total*
A. W. Mellon ..	$195,633.82	$ 1,487.50	$ 197,121.32
R. B. Mellon ..	195,633.82	1,487.50	197,121.32
H. C. Frick	195,633.82	1,487.50	197,121.32
	1920		
Net income reported by agent			$ 617,263.85
Obsolescence of good will shown by agent		$ 228,076.01	
Obsolescence of good will corrected		9,267.20	218,808.81
Corrected income to be distributed			$ 836,072.66
A. W. Mellon		$ 278,690.89	
R. B. Mellon		278,690.89	
H. C. Frick		278,690.88	

Mr. Eustace:

Defendant now renews its offer of Defendant's Exhibit "C", being the copy of the revenue agent's report in connection with the tax liability of A. W. Mellon for the year 1920.

The Court:

How do these other exhibits change our former ruling in this respect?

Mr. Eustace:

These letters which have been admitted in evidence refer to the report, and start with the income as computed by the Commissioner and by the agent.

The Court:

Is it referred to in these various letters?

Mr. Eustace:

Calling attention to Defendant's Exhibit "J", a letter addressed to the plaintiff, the Commissioner makes this statement: "The revenue agent's report has been approved as submitted, with the exception of adjustments made to the distributive share from A. Overholt & Company, partnership, which are fully explained in Statement of Distributive Interest attached", and attached to the letter is a computation.

The Court:

I think we will admit that, subject to objection and exception, Mr. Booth, simply as showing the answers of the Department and in connection with it. Of course, it is admissible only for that purpose.

Mr. Booth:

It is not admissible, sir, as proving any of the facts.

Mr. Eustace:

It is not offered for that purpose.

Which said Defendant's Exhibit "C", duly certified, so offered and admitted in evidence, is in words and figures as follows:

Defendant's Exhibit "C".

(Page 444 a.)

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TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

PITTSBURGH, PA.

OFFICE OF
INTERNAL REVENUE AGENT IN CHARGE
PITTSBURGH DIVISION

February 9, 1922.

Field Reports Control Section
Received Oct. 18 1922
Recorded Oct. 18 1922
Closed MAR 3 2 1927 19

Commissioner of Internal Revenue,
Washington, D. C.

Attention
Head, Field Division

The following individual report on the income tax liability of A. V. Mellon, [illegible] for years 1918 and 1920 is submitted herewith. [illegible] A. Company supplemental corporation report [illegible] 1918, supplemental personal report [illegible] [illegible] report of Mellon Securities Company [illegible] 1920.

[redacted]

[redacted]

134-P

M.C.

OFFICE OF
INTERNAL REVENUE AGENT IN CHARGE
PITTSBURGH DIVISION

TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

PITTSBURGH, PA.

In re: A. W. Mellon
Pittsburgh, Pa. 23rd District

November 8, 1921.

Examining Officer	Examination Commenced	Examination Completed
A. W. Smith, Agent	Apr. 11, 1921	Nov. 8, 1921

Days spent on examination — 6

Internal Revenue Agent in Charge,
Pittsburgh, Penna.

The following report is submitted as the result of an investigation of the income and profits tax liability of the above named individual for the years 1919 and 1920.

Comparison has been made with retained copies for the years 1919 and 1920. Prior years were reported on previously.

Authority for examination - By direction of Revenue Agent in Charge.

Business - Banker and Financier.

Exemption Status - No Normal tax.

Wife's income - None

SUMMARY

Year	Add'l Tax due
1919	189,993.97
1920	132,697.69 196,745.66
Total	322,691.66
Net additional tax due	$ 322,691.66

Taxpayer has been fully advised of the findings and approves same.

Respectfully submitted,
(Signed)
Albert W. Smith,
Internal Revenue Agent.

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[illegible]

Mr. Mellon was financier and Banker and, until 1921, has been connected with various interests. Owing to the volume of his transactions, his affairs have been somewhat difficult to examine.

Mr. H. M. Johnson, his Accountant has excellent records to conform in detail with the information required by the Department and has used great care in compiling the returns. Notwithstanding this fact Mr. Johnson discovered that some transactions in the hands of Post & Flagg, and Moore, Leonard & Lynch, Brokers, in which income existed for the years 1915 to 1919, inclusive, had been omitted, as the items were not entered on his books. I found that Mr. Johnson was filing amended returns for these years and suggested to him that he withheld 1919 and I would incorporate this change in my report. Inasmuch as former years had been examined, he filed amended returns for the years 1915 to 1918, inclusive, paying an additional tax of approximately $1[illegible],000.00.

A similar transaction developed in my examination in which he included in Block [illegible] - 1919, Original return income from W. [illegible] Mellon Special Account amounting to $[illegible],507.[illegible]. This had been separately and was entirely overlooked. For the following schedule it will be noted that this is not income for 1919, but should have been distributed as follows:-

Year	Total	A. W. M. [illegible]
[illegible]	19,448.80	[illegible]
[illegible]	24,226.97	[illegible]
[illegible]	9,419.82	[illegible]
[illegible]	1[illegible],756.84	[illegible]
[illegible]	1[illegible]	[illegible]
	[illegible]	[illegible]
1918 - Loss	[illegible],806.48	[illegible]
1919 - Loss	[illegible]	[illegible]
	[illegible]	[illegible]

I offered to adjust this [illegible] $1,[illegible] instead of income [illegible] profits and income in their respective [illegible] preferred to leave the matter [illegible] and stated that the taxpayer [illegible] in this instance. I feel that [illegible] [illegible] fully appreciates [illegible] some items considering [illegible] "handled" [illegible] for filing returns.

I have [illegible] his [illegible] for the years 1919 [illegible] 1920, to which Mr. Johnson [illegible]

[redacted]

[illegible] 1919 Revised 7/19/19

Line H (as per previous audit)			302450.41
Deductions			
Block I	Interest	774803.07	
	Taxes	101089.70	
	Bad Debts	55515.63	
	Contributions	179117.81	610526.56
			(308075.15)
Block K	Dividends		3,290,568.02
	L B Dist.		15,924.86
	Net Income		2,998,417.33
	Dividends	3,290,568.02	
	L B Dist	15,924.86	3,306,[illegible]
			Due [illegible]
	Protest	[illegible]	
	Tax at source	4521.09	
		[illegible]	
	Income assessed	[illegible]	

Quad

[illegible]

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[redacted]

1919 Overholt - revised

Block B	- Salaries etc		$11,188.25
C	- West Overton	8762.41	
	R B Mellon, Trustee	37865.68	
		46628.09	
	a. Overholt & Co. Inc	122980.92	(76,352.83)
Block D	as per agent		1796.73
Block E	Do		(26083.10)
Block F	Do		240,554.72
Block G	Interest Wages	350.00	
	Bonds	6049.58	
	Bank	118439.83	
	W. L. Mellon Special %	26650.23	151,346.64
Line H			302,450.41
	Deductions		
Block I	Interest	274803.02	
	Taxes	101089.20	
	Contributions	177767.81	609,175.56
	Bad Debts	55515.53	
			(306,725.15)
Block K (a)	as per agent		3,290,568.02
(b)	Do		15924.86
			2,999,767.73

Reconciliation

Agent Income		2,992,007.29
Less		
2% Credit tax at source		4811.09
		2,987,196.20
add		
Disallowed contributions		1700.00
Reduced loss - Overholt		10871.53
		$2,999,767.73

12571.53
4811.09
7760.44
6570
38802.20
46562.64
50442.86
189993.97
$195,038.25

No Normal tax	
Surtax	1,883,359.02
Total tax	1,883,359.02
Tax paid at source	4811.09
	1,878,547.93
Assessed	1,683,509.68
Addtl tax	$195,038.25

1919

(Page)

	Original		Amended		Difference
B - Salaries					
Ligonier Valley RR Co.	1800.00				
Aluminum Co. of Amer.	5000.00				
Union Iron Co.	1083.29				
A. Overholt & Co. (Treasurer)	2499.96				
Fees estimated Hendrie	805.00	11188.25		11188.25	
C - Partnership, etc.					
A. Overholt & Co.	(219514.31)		(133852.45)		85661.86 pl.
West Overton Dist. Co.	(1741.31)		8762.41		10503.72 pl.
Fiduciary R.B.Mellon Trustee	37865.68	(183389.94)	37865.68	(87224.36)	
D - Profits on sales per schedule		(127504.64)		1796.73	129301.37 pl
E - Rents per schedule original		(26083.10)		(26083.10)	
F - Int. from tax free bonds per schedule		240554.72		240554.72	
G - Other Income					
Interest from mtgu. etc.	350.00				
" " Foreign Bonds	6049.58				
" " Bank Dept.	118439.83				
2% Credit tax free Bond Interest.	4811.09				
W. L. Mellon special	26507.23	156157.73		156157.73	
H - Total from above		70923.02		296389.97	225466.95 pl
I - Deductions					
Interest	114066.30		274803.02		160736.72 pl
Taxes	101089.20		101089.20		
Contributions	179467.81		179467.81	177[illegible].81	
Bad debts	60942.71	455566.02	55515.53	610875.56	5427.18 -
J - Net income for Normal tax		(384643.00)		(314485.59)	70157.41 pl
K-a- Dividends		3068427.02		3290568.02	222141.00 pl
b - US Bond Interest		15924.86		15924.86	
L - Net income for surtax		2699708.88		2992007.29	292298.41 pl

COMPUTATION OF TAX

Normal tax				-
Surtax	1000,000.00		583510.00	
	1992,007.29 at 65%		1294804.74	1878314.74
Credit 2% Tax Free Bond Interest				4811.09
Total tax liability				1873503.65
Amount of tax paid				1683509.68
Additional tax due 1919				189993.97

DIFFERENCES

Addition to net income	292,298.41
As follows:-	
Income from partnership - A. Overholt & Co., increased per partnership report herewith	85,661.86
Income from partnership - West Overton Dist. Co. increased per partnership report Feb. 2, 1921	10,503.72
Profits from sales of stock increased per Schedule below	129,301.37
Deduction disallowed for Bellefield Co., Bonds exchanged for stock under Art. 1564B -1875.00	
Deduction disallowed for Amortization of Premium paid for Bonds held, which constitute part of Cost to be taken at time of disposition of Bonds 3552.18 Total	5,427.18
Dividends received through Brokers and not included in original return per explanation above	222,141.00
Total additions	453,035.13
Allow interest paid by Brokers and omitted on Original return	160,736.72
Net addition to net income as above	292,298.41

Detail of 129,301.37 - Addition as follows:

Name of stocks & bonds sold	S.P.	Cost
Fairmount Brewing Co. stock	3560.65	34,300.00
J.J. McCormick & Co., Liq. stock	-	4,750.00
J.J. McCormick Co. stock	5000.00	21,591.80
Union Steel Co. Bonds	268750.00	261,875.00
" " " "	1800625.00	1754562.50
McClintock Marshall Const.Co. stock	360000.00	480,000.00
Real Estate W S Moorehead	24247.50)	
" " " " Depreciation	2600.00)	35,208.49
Crucible Steel Co.	104904.00	59,737.50
" " " Post & Flagg	175615.00	106,775.00
Union Steel Co. "	514637.50	499,987.50
Union Tank Line "	67892.50	53,747.51
Baldwin Loco. Co. Moore L & L	101085.00	107,625.00
Total	3428,917.15	3420,180.30
Less- share R.P. Mellon in Union Tank Line		6,960.12
Amended profit this report above		1,796.73
	3428,917.15	3428,917.15
Loss per original Return Block D		127,504.64
Profit per amended		1,796.73
Increase in net income block D as above		129,301.37

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A. W. Mellon – 1920 Revised 7/19/27

Income (see previous audit)			2,038,107.62
Contributions			
Total Grader		239,341.00	
Pres Civic Club	100		
Wilks. C.C.	10		
Chute Mem	15000	15110.00	224,231.00
Revised net income			1,810,876.62
Dividends		3,353,819.28	
LB Dist		4347.48	3,358,166.70

No normal tax

Surtax	1,112,529.80
	1,112,529.80
Tax fed at source	2332.24
	1,110,197.56
assessed	919,777.86
additional	190,419.70

74000
6170
37000
44400
48100
19529.70
$190,419.70

2

[redacted]

1920

Block B	Salaries etc		10921.59
C	Overholt	281,779.95	
	West Overton	52814.28	
	J P Mellon Trust	39050.63	373,644.86
D	Loss on sales		(1,308,499.55)
E	Rents		(112734.31)
F	Int on tax free bonds		116611.97
G	Bond interest	350.00	
	Sinking funds	6467.20	
	Bank interest	201394.45	
	Rediscounting	2027.70	210,139.35
			3,353,819.22
H	Dividends		4347.48
I	C&B Dept		3,648,250.61

Deductions

Interest	445,220.44	
Taxes	125,762.35	
Office expense	36,160.20	610,142.99
		3,038,107.62

M Contributions		209341.00	
[illegible]	100.-		
[illegible]	[illegible]		
[illegible]	10.-		
[illegible]	10.-	25,510.00	234,851.00
			1,821,276.62

[illegible]	1,745,972.53	Per normal Tax	
[illegible]	[illegible]	Surtax	1,117,339.00
[illegible]	[illegible]		1,117,339.00
[illegible]	1,943,188.83	Profit sharing	[illegible]
[illegible]	[illegible]		[illegible]
[illegible]	1,821,276.62	Amount	917,774.86
			195,229.70

29

1920

(Loss)

	Original		Amended		Difference
B - Salaries					
Ligonier V.R.R. Co.	1800.00				
Aluminum Co. of Amer.	5000.00				
A. Overholt & Co.	2499.96				
Sundry feed	1621.63	10921.59		10921.59	
C - Partnership, etc.					
A. Overholt & Co.	48350.74		205754.62	281,779.95	157403.88 pl
West Overton Dist. Co.	5960.55		52814.28	accepted	46853.73 pl
Fiduciary R.B.Mellon					
Trustee	39050.63	93361.92	39050.63	accepted 297619.53	
D - Profits on Sales					
per Schedule		(1308499.55)		(1308499.55)	
E - Rents					
Per schedule original		(112734.31)		(112734.31)	
F - Int. from tax free bonds		116611.97		116611.97	
G - Other income					
Interest from bonds	350.00		350.00		
" " Foreign Bonds	6467.20		6467.20		
" " Deposits	201294.45		201294.45		
2% Credit tax free					
Bonds Int.	2132.94		2332.24		199.30 pl
Underwriting	2027.70	212272.29	2027.70	212471.59	
H - Dividends		3353819.22		3353819.22	
I - Farmble L.B. Int.		4347.48		4347.48	
J - Net income from above		2370100.61		2574557.52	204456.91 pl
K - Deduction					
Interest	448220.44				
Taxes	125762.35				
Office expenses	36160.20	610142.99		610142.99	
L - Net income from above		1759957.62		1964414.53	204456.91 pl
M - Contributions Schedule orig.		239341.00	214,53.17	239341.00	
N - Net income for tax		1520616.62		1725073.53	204456.91 pl
				1,721,216.62	

COMPUTATION OF TAX -

Normal tax					
Surtax	1000,000.00			582510.00	
84,607.86	725.073.53	at 65%	533,849.80	471297.79	1054807.79
Credit 2% Tax free bond interest				1,117,339.80	2332.24
Total tax liability				1,115,007.56	1052475.55
Amount of tax paid				919,777.86	919777.86
Additional tax due 1920				195,229.70	132697.69

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DIFFERENCE

Net income increased as follows:	204,456.91
Partnership Income A. Overholt & Co. increased per report even date	157,403.68?
Partnership Comp.s - West Overton Dist. Co. increased per report even date	46,653.73?
Items in Other Income Credit 2% on Tax Free Bond Interest increased due to error in calculation	199.30
Total additions to net income	204,456.91

Loss was claimed on Penna. R.R. Co. stock sold between Mar. 1, 1913 - value and Cost not taken on original Return under Supreme Court decision Goodrich vs. Edwards - Mar. 28, 1921 Corp. Trust page 558. Amount 155,869.50 - Not allowed in this report per instructions dated May 27, 1921.

Same applies to his share of loss in 1919 on Joint Books 64,276.40, Swan Falls Power Co.

Taxpayer reserves right to file Claim for Credit in future.

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Real Northwestern Ore

	Capital	dividends
1916	.547	— .547
1917	1.143	1.143
1918	1.417	1.417
1919	2.756	— 2.756
1920	2.526	1.528
		7.391

1125
7.391

1125
10125
3375
7875

$8314.875

1916
High market
for
average

50
32
82
41

41) 46125.00
1125 shares

21

A. W. MELLON

Detail 1920 - Profits on sales Stocks & Bonds - All purchased since 3/1/18 except P.R.R. Stock last item.

Block D - Profits Sales - All purchased since 3/1/1918

Kind		S.P.	Cost	Gain or loss
2nd Liberty Bonds		4255.75	5000.00	(746.25)
3rd "		109.59	122.53	(12.94)
4th "		21.20	26.49	(5.29)
Real Estate		8000.00	6511.00	1489.00
Interborough Bonds		39950.00	59218.15	(19268.15)
Allgemeine Elec. Stock		99114.50	185000.00	(85885.50)
Amer. Int. International Co.		8140.00	25000.00	(16860.00)
Guar. Sec. Stock		1387.33	8146.75	(6759.42)
Real Estate		500.00	847.84	(347.84)
2nd Liberty Bonds		28.28	32.70	(4.32)
4th "		28.43	33.33	(4.90)
G. Alfance Stock		12655.00	12825.00	(170.00)
American Sugar Co. stock		396650.00	434490.00	(37840.00)
Anaconda "		54,[illegible]	55,125.[illegible]	([illegible])
Baldwin "		80972.50	98150.00	(17177.50)
B & O R.R. "		97505.00	248800.00	(151295.00)
C & N.W. Co. "		65310.00	81075.00	(15765. 00)
Great North Ore. "		24850.00	46125.00	(21275.00) *
Ill. Central "		127077.50	156987.50	(29910.00)
Inspiration Copper "		28054.50	45625.00	(17570.50)
Pcc & St. L. "		83568.75	80569.50	2999.25
P R R "		161232.50	219287.50	(57755.00)
Rep. I & S. Co. "		128157.00	188300.00	(60143.00)
So. Pac. R "		197982.50	225475.00	(27492.50)
Am. Loco. Co. "		1006487.50	1194325.00	(187837.50)
Mobile S. Co. "		143907.50	188100.00	(44192.50)
Kennicott Copper "		7655.00	28600.00	(20945.00)
Mont. Power "		24750.00	47582.50	(22832.50)
L R R "		41830.00	58000.00	(16170.00)
Pgh. Coal Co. Pfd. "		17962.00	20625.00	(2663.00)
U S Steel Co. "		157757.50	188050.00	(30292.50)
Wabash A "		18054.00	46012.50	(27958.50)
Pgh. Field Club Bonds		1800.00	2000.00	(200.00)
Russian Govt. "		5925.75	103615.00	([illegible])
2d L. B. "		8501.50	10000.00	(149[illegible].50)
3d " "		65099.99	74150.00	(9050.01)
4th " "		43694.25	51000.00	(7305.75)
Victory "		720181.40	750033.00	(29851.60)
Aluminum Stock		31620.00	50080.00	(18460.00)
P R R "		315302.13	487313.13	(172011.00)
Total		4204,738.90	5513,238.45	(1308,499.55)

* Non taxable dividends of 1916 - .543, 1917 - 1.413, 1918 - 1.526, 1919 - .109 = 4.091 per share have been paid

File of [illegible] years here on [illegible] dividends [illegible] not [illegible]

[illegible] not [illegible]

SCHEDULE OF TAX FREE BONDS

Name	1919	1920
International Graphite Co.	375.00	375.00
Ward Baking Company	12.00	12.00
Allegheny Valley St. Ry. Co.	3200.00	4200.00
Union Steel Co.	11458.34	-
Hill School Bonds	120.00	120.00
University Club	125.00	125.00
Country Club of Allegheny Co.	210.00	210.00
Pittsburgh Field Club	120.00	72.00
P C C & St. L. Ry. Co.	-	1124.82
Total personal books	15,620.34	6,238.82
Special Account		
Interboro Rapid Transit Co.		15,000.00
P C C & St. L. Ry.		350.65
Total special account		15,350.65
Joint Books		
Interboro Rapid Transit Co.	8,504.17	8,500.00
N. Y. Ship Bldg. Co.	123,045.00	123,045.00
Penna. Water Co.	50.00	50.00
Union Steel Co.	197,888.33	58,500.00
Wilkinsburg & Verona St. Ry.Co.	50.00	150.00
Total Joint Books	329,532.50	190,045.00
A. W. Mellon share	224,934.38	95,022.50
R. B. Mellon "	104,598.12	95,022.50
Total	329,532.50	190,045.00

RECAPITULATION

Personal Books	15,620.34	6,238.82
Special Account	-	15,350.65
Joint Books	224,934.38	95,022.50
Total per return	[illegible]	116,611.97

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INTEREST RECEIVED EXEMPT FROM TAX

Name		1919	1920
Federal Land Bank		39,225.00	91,750.00
Victory 3-3/4		16,071.75	9,843.75
City of Pittsburgh		4,687.50	27,500.00
" " Philadelphia		3,250.00	22,500.00
Boro of Farrell, Pa.		1,971.00	6,[illegible].00
Country of Erie		-	11,250.00
City of Chester		-	15,500.00
Less - accrued int. paid		65,205.25	
Co. of Erie	2,875.00		
City of Pgh.	11,250.00		
" " Chester	4,987.50	19,112.50	
		46,092.75	2[illegible],[illegible]75

A. W. MELLON - - CAPITAL ACCOUNT

Capital account - - Dec. 31, 1918 per former report		79,498,782.65
Net income for tax - 1919		2,992,007.29
Union Steel Bonds 3/1/13 value		11,875.00
Municipal U S Bond Int. non-taxable		46,092.75
Liberty Bond Interest non-taxable		5,469.37
Adjustment depreciation		6,184.95
Capital account adjustments		5,151.66
Interest allowed paid by Brokers		160,736.72
London Bank Account		511.14
Asset - West Overton Distilling Co.		66,231.19
		82,792,022.70
1st Liberty Loan Bonds	75,000.00	
Income tax	1,895,512.59	
Income paid at source	4,811.09	
Dividends in hands of Brokers omitted	222,141.00	
Profits on sale of stock "	129,301.37	
Partnership losses disallowed "	96,165.58	
Loss - Bellefield Co., " "	1,875.00	
Amortization Bond premium disallowed	3,552.18	
Personal withdrawals	249,341.03	2,677,699.84
Capital - Dec. 31, ~~1920~~ 1919		80,114,322.86
Income for tax 1920		1,725,073.53
Union Improvement Co. Return of capital 1902 up		44,525.11
War Bonds		393.96
Adjustment Donations transferred - Income a/c		180,973.87
Tax free L.B. Interest		2,762.50

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[redacted]

Book Profit Centre Ave, Lot sold 3/1/13 value		15,916.70
Appraisal property		215,144.21
Municipal & U S Bond Interest		223,278.75
		82,522,391.49
Diff. between 3/1/13 value & cost Loss on		
P R R stock disallowed	156,869.58	
Income tax	1,686,672.76	
Joint A/c donations	42,314.25	
Credit of Tax Free Bond Int.	2,352.24	
Partnership profits increased	204,257.61	
Trustee property adjustment	2,600.00	
Mollintic Marshall Dividend 1917		
Rescinded	156,128.70	
Personal withdrawals	497,576.08	
		2,748,751.22
Capital Dec. 31, 1920		79,773,640.27

Liberty Bond Schedules filed with original returns are correct.

Union Steel Bond profit 11,875.00 Non-taxable is based on same value as of Mar. 1, 1913 as accepted in prior years for same bonds.

Union Improvement Co., 44,525.11 is return of capital based upon information received from this Company.

Book Profit on sale of Centre Ave., lot 15,916.70 is based on appraisal of Jan. F. Donavan Real Estate Broker, Columbia Nat'l Bank Bldg., as follows:-

3/1/13 value based on sales adjacent		24,165.00
Selling price	24,191.00	
Less - Expenses in selling	1,109.50	23,002.50
Profit		none

The above examination was based on Returned Copies of Returns held by taxpayer, as I had no transcripts.

(Signed)

Albert W. Smith,
Internal Revenue Agent.

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Mr. Eustace:

Defendant now renews its offer of Exhibit "D", being the same type of instrument as Exhibit "C" just admitted in evidence—the revenue agent's report of the examination of the income report of R. B. Mellon for the year 1920.

The Court:

This will also be admitted; the same thing is true as to this exhibit. Objection overruled and an exception.

Which said Defendant's Exhibit "D", duly certified, so offered and admitted in evidence, is in words and figures as follows:

Defendant's Exhibit "D".

(Page 446 a.)

TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

PITTSBURGH, PA.

OFFICE OF
INTERNAL REVENUE AGENT IN CHARGE
PITTSBURGH DIVISION

February 9, 1922.

Field Reports Control Section	
Received Oct. 18	1922
Recorded Oct. 18	1922
Closed	19

Commissioner of Internal Revenue,
Washington, D. C.

Attention,
Head, Field Division.

The following individual report on the Income Tax Liability of R. B. Mellon, Pittsburgh, Pa., for the years 1919 and 1920, is submitted herewith, the A. Overholt & Company supplemental corporation report for the year 1918, supplemental partnership report for the year 1919, partnership report for the year [illegible] Partnership report of West Overton Distilling [illegible] for the year 1920.

The examination on which was made by Internal Revenue Agent Albert W. Smith [illegible] the records were submitted to former Revenue Agent [illegible] on November 8, 1921, but owing to the [illegible] condition of the work in the office, the reports were not typed until the present time.

Owing to the question of [illegible] will in the corporation and partnership reports of A. Overholt & Company, it is thought that all of the above named reports should be audited by the Department at the same time, which is the reason for transmitting them together.

A copy of this report has been furnished the Taxpayer.

Albert W. Smith
Acting Revenue Agent in Charge.

AWS-EM.

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TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

PITTSBURGH, PA.

OFFICE OF
INTERNAL REVENUE AGENT IN CHARGE
PITTSBURGH DIVISION

In re: R. B. Mellon,
Pittsburgh, Pa., 23rd Dist.
of Penna.

November 8, 1921

Examining Officer	Examination Commenced	Examination Completed
Albert W. Smith, Agt.	Apr. 11, 1921	Nov. 8, 1921

Days spent on the examination 6

Internal Revenue Agent in Charge,
Pittsburgh, Penna.

The following report is submitted as the result of an investigation of the income and profits tax liability of the above named individual for the years 1919 and 1920.

Comparison has been made with retained copies for the years 1919 and 1920. Prior years were examined previously.

Revenue Agent in Charge. **Authority for examination** - Direction of

Business - Banker & Financier.

with wife. No Normal tax. **Exemption Status** - Married and living

change. **Wife's income** - Separate report. No.

SUMMARY

Year	Add'l Tax
1919	155,589.61
1920	127,743.15
Total	283,332.76
Net add'l tax	283,332.76

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Taxpayer has been fully advised of the findings.

The taxpayer reserves right to deduct Loss in 1919 of $64,276.40, his share on Swan Falls Power Co., joint books as cost in excess of Mar. 1, 1913. Value should decision be made that the Government cannot take less than cost on Losses. Otherwise this report is agreed to in connection with agreement on A. Overholt & Co., report submitted herewith.

(Signed)

Albert W. Smith,
Internal Revenue Agent.

1919 - (Losses)	Original	Amended	Difference
B - Salaries			
Aluminum Co. of America	5,000.00		
Ligonier V.R.R. Co.	1,800.00		
A. Overholt & Co.	2,499.96		
Sundry fees	785.00		
Total Block B	10,084.96	10,084.96	
C - Partnership, etc.			
A. Overholt & Co.	(219,514.31)	(~~135,852.45~~) 122,980.92	96,661.86 pl.
West Overton Dist.Co.	1,741.32)	(8,762.41	10,503.73 pl.
Fiduciary R.B.Mellon, Treas.	37,865.68	37,865.68	
Total Block C	(183,389.95)	(87,224.36)	96,165.59 pl.
D - Profits on sales of stock			
Per schedules	(374,521.77)	(186,172.12)	188,349.65 pl.
E - Rents per schedule	(30,248.89)	(30,248.89)	
F - Tax free bond int.	105,330.37	105,330.37	
G - Other income			
Bond Interest	375.00		
" " Joint	14,458.08		
" " Foreign	6,025.84		
Interest	118,886.25		
Cr. 2% T.F. Int.	2,106.60		
W. L. Mellon special	26,507.22		
Total Block G	168,358.99	168,358.99	
H - Totals from above	(304,386.29)	(19,871.05)	284,515.24 pl.

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R B Mellon - 1919 Revised

Block B	Salaries		10084.96
Block C	West Overton	8762.41	
	Mellon Trust	37865.68	
		46628.09	
	Overhead	122980.92	(76352.83)
	Sales of Stock		(186172.12)
Block D			
Block E	Rents		(30248.89)
Block F	Tax free funds		105830.37
Block G	Mining & Trust	~~[illegible]~~	
	Bond Interest	37500	
		14456.08	
	Mining	6225.84	
	R B Mellon Special	26507.22	166252.39
			(11106.12)
Block L	Int Paid		142839.19
	Taxes		85513.53
	Bad Debts		53133.97
	Contributions 15%		113222.38
			394709.38
			(40[illegible])
Block K(1)	Dividends		1,054,[illegible]
	L B Interest		1[illegible]
	Net Income		[illegible]

Recapitulation

Deficit - Income	134142.30	
Add		
Accumulated Loss	[illegible]	
Less		
Surplus credit	[illegible]	
15% Contribution	[illegible]	74501.[illegible]
		641,[illegible]
Surplus	[illegible]	
	[illegible]	
Deficit	[illegible]	
	1[illegible]	

No normal [illegible]

Contrib

Int [illegible]

Income

Loss

	Original	Amended	Difference	
I - Deductions				
Interest	142,839.19	142,839.19		
Taxes	85,513.83	85,513.83		
Bad debts	55,008.97	53,133.97	1,875.00	-
Contributions	68,700.71	111,907.64	43,206.93	pl.
Total deductions	[illegible]	[illegible]	41,331[illegible]	pl.
I - Totals from above	(656,[illegible])	(615,235.68)	343,1[illegible]	pl.
Dividends	1034,651.78	1034,651.78		
Int. interest	11,106.26	12,757.20	1,[illegible]	pl.
[illegible] income	[illegible]	[illegible]	[illegible]	

[illegible]

[illegible] tax

[illegible]	[illegible]	343,810.00
[illegible]	[illegible]	[illegible]

[illegible]

LIBERTY BOND SCHEDULE AMENDED

	4-1/4-2nd Conv. 3rd	4-1/4% 3rd	4-1/4% 4th	Cert. Ind. 4%
Int. rec'd.	1,062.50	3,758.41	2,160.02	11,301.26
Avge. prins.	25,000.00	88,433.33	50,824.00	282,531.50
Exemptions				
a - 5,000.00	5,000.00			
b - 20,000.00	20,000.00			
c - 30,000.00	-	30,000.00		
d - 45,000.00	-	45,000.00		
e - 30,000.00	-	-	30,000.00	
Excess pr.	None	13,433.33	20,824.00	282,531.50
Exc. Int.	-	570.92	885.02	11,301.26

Total taxable interest amended 12,757.20
" " " original 11,101.26
Additional taxable interest 1,655.94

The increase in income from partnerships. Overholt & Co., and West Overton Distilling Co., is based on examination of these books, report for which I submit at this time on 1920, 1919 having been submitted Feb. 2, 1921.

The Victory Loan subscriptions entitled taxpayer to the maximum allowance.

On Original Return Loss was taken on Sales of Stock amounting to $74,521.77 per list submitted with return. I checked this list and found it to be correct with the exception of one item as follows:

Morris Brown & Co., Brokers
Selling Price 746,375.00
Cost 1043,227.77
Loss 296,852.77

These transactions in the hands of above Brokers were closed at various dated in 1916, 1917, 1918 and 1919 and only 108,503.12 applies to 1919. He will file Amended Return for 1918 claiming loss in that year for 120,424.53, which is correct. $52,517.56 belongs to 1917, which is now deductible under Ruling Bulletin No. 4, page 163, $15,407.56 belongs to 1916 per Exhibit "A" attached herewith.

15407.56
52,517.56
120,424.53
108,503.12
296,852.77

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R. B. Mellon - 1920 Revised 7/19/27

Salaries		9624.96
Partnerships		
Overholt Co	281779.95	
West Overton	52814.28	
J R Trust	39050.63	373,644.86
Loss on sales securities		(164,459.39)
Rents		(51,135.44)
Int on Tax free bonds		97125.50
Other Income		203443.83
Dividends		995147.83
L B Interest		3647.96
		1,467,029.11
Block K General deductions		333704.82
		1,133,324.29
Contributions		
Total as per list	137915.01	
Less Mutual League	50.00	137865.01
Revised Income		1,000,459.28
Dividends	995147.83	
L. B. Int.	3647.96	998,795.79
		1673.49
		470
		$66,939.6

normal tax	$66.94
surtax	583808.53
	$583,875.47
2% at source	1942.49
	$581932.98
assessed	406673.28
additional	$175,259.70

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Correct net income 1,008,859.28

Less:
Dividend 995,142.83
L.B. Interest 3642.96 998,785.79

Amt subject to n. tax 10,073.49
" " " n.t. @ 4% 4,000.00
" " " " " 8% 6,073.49

Normal tax at 4% $ 160.00
" " at 8% 485.88
Surtax 589,268.53
589,914.41
Tax pd. at source 1,942.49
Balance 588,971.92
Previously assessed 406,673.28
Further tax due 182,298.64

assumed that personal exemption was allowed on wife return as in 1921. Cannot locate wife return.

over

H8

Reconciliation

Income as per Agent 926,326.44

Add

Disallowed contributions 8450.00

Rosenhaft & Co 76,025.33

101,801.77

Less

2% tax credit 1,442.49

100,359.28

8447.33

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Block	1920 Original	Amended	Difference
B - Salaries			
A Overholt & Co.	2,499.96		
Ligonier Valley R.R. Co.	1,050.00		
Aluminum Co. of Amer.	5,000.00		
Sundry Fees	1,075.00		
Total Block B	9,624.96	9,624.96	
C - Partnerships, etc.			
A. Overholt & Co.	48,350.74	281,779.95 205,754.62	157,403.88 pl.
West Overton Dist. Co.	5,900.55	52,814.28 checked	46,853.73 pl.
Fiduciary	39,050.63	39,050.63 checked	
Total Block C	93,301.92	297,619.53	204,257.61 pl.
D - Profits from Sale			
See schedule	(164,459.39)	(164,459.39)	(Depreciation?)
E - Rents			
See schedule	(51,135.44)	(51,135.44)	
F - Int. tax free bonds	97,124.50	97,124.50	
G - Other income			
Interest	375.00	375.00	
" Foreign	6,273.38	6,273.38	
" Joint	196,785.45	196,795.45	10.00 pl.
Tax Free int. source	1,942.49	1,942.49	
	205,375.32	205,386.32	10.00 pl.
H - Dividends			
Personal books	269,145.92		
Joint "	725,996.91		
Total dividends	995,142.83	995,142.83	
I - L. B. Interest			
Personal books	3,432.65		
Joint Books	210.31		
Total Block I	3,642.96	3,642.96	
J - Totals	1188,675.66	1392,946.27	204,267.61 pl.
K - Deductions			
Interest	81,833.96		
" Joint	134,492.14		
Taxes	85,934.01		
" joint	267.52		
Business expense	9,823.20		
Bad debts	2,125.00		
Bus. expense joint	17,851.62		

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W.L. Mellon special		1,377.37		
Total Block K		333,704.82 ✓	333,704.82 ✓	
			1,123,324.29	
L - Total from above		854,973.84	1059,241.45 ✓	204,267.61 d
Contributions		128,246.08	132,915.01 ✓	4,668.93 pl
Net income		726,727.76	925,326.44 ✓	199,598.68 pl
			1,058,859.28	
Normal tax				-0-
Surtax	500,000.00		263,510.00 ✓	
	426,326.44	64%	272,848.92 ✓	536,358.92 ✓
Credit tax Free Bond Int.		2%		1,942.49 ✓
Total tax liability				534,416.43 ✓
Amount of tax paid				406,673.28 ✓
Additional tax due 1920				127,743.15 ✓

DIFFERENCES

Net income increased	199,598.68 ✓
As follows:	
Profits increased Partnership A.Overholt & Co. per report herewith	157,403.88
Profits increased partnership - West Overton Dist. Co. - per report herewith	46,853.73
Error calcualtion - Other income	10.00
Total additions to net income	204,267.61 ✓
Less - Contributions increased to list - original return	4,668.93
Net addition to net income	199,598.68 ✓

Liberty Bond Schedule for 1920 was correct.

In the year 1919 in "Other Income " is included an item of $6,507.22 from W. L. Mellon Special Account, which I feel should read a loss of 1,886.47 in 1919 Loss 1918 - 2,102.15 and Profits 6,849.40 in 1917, 6245.51 in 1916, 3139.94 in 1915, 8075.66 in 1914, and 6549.40 in 1913 - but Taxpayer prefers to report it all in 1919 and waives any claim on making change. This was overlooked in original return, being kept separately. I offered to make the change. See report of A. W. Mellon this date explaining this transaction in full.

See Exhibit "A" attached for correction on Profits on Sales of Stocks and Bonds handled through Morris Brown & Co., Brokers - Balance of list as submitted with original return is correct.

Taxpayer agrees to above findings with reservation to make claim later on Swan Falls Power Co., in 1919.

(Signed) Albert W. Smith, Int. Rev. Agent.

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R. B. MELLON EXHIBIT "A"

Profits on Sales of Stock

	Sale	1916 Cost	P & L	Sale	1917 Cost	P & L	Sale	1918 Cost	P & L	Sale	191 Cost
Penna. R. R. Stock 500 sh - 1918 3600 " - 1919							22477.50	29493.75	(7016.25)	163778.00	2081
B & O R R Stock 1600 sh - 1916 500 " - 1917 2100 " - 1918 1000 " - 1919	145585.50	148250.00	(2664.50)	39877.50	44450.00	(4772.50)	117391.00	183300.00	(65909.00)	87053.00	1490
NYNH & Hartford RR 600 shs - 1917 2000 " - 1918 200 shs - 1919				19628.00	40050.00	(20422.00)	101725.00	119236.50	(17511.50)	6592.00	8
A T & S Fe. Stock 200 shs - 1918							42467.50	53437.50	(10970.00)		
Carrying charges		12743.06	(12743.06)		27323.06	(27323.06)		19017.78	(19017.78)		3
Total	145585.50	160993.06	(15407.56)	59505.50	111823.06 59505.50 52317.56	(52317.56)	284061.00	404485.53 284061 120424.53	(120424.53)	257423.00	3856 257 1085

RECAPITULATION

Year	Sales	Cost	P & L
1916	145585.50	160993.06	(15407.56)
1917	59505.50	111823.06	(52317.56)

L	Sale	1919 Cost	P & L
,25)	163778.00	206418.75	(42640.75)
00.00)	87053.00	149925.00	(62872.00)
30)	6592.00	6225.00	367.00
00)			
32)		3357.37	(3357.37)
53)	357423.00	365926.12	(108503.12)
		257423.00	
		108503.12	

Mr. Eustace:

Defendant now offers Defendant's Exhibit "K", being a certified photostatic copy of revenue agent's report dated November 8, 1921, covering the examination of the affairs of A. Overholt & Company for the year 1920, which is referred to and incorporated in the letters heretofore admitted as exhibits and in the Exhibits "C" and "D".

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

	1918	284061.00	404485.53	(120424.53)			
	1919	357423.00	265928.12	(108505.12)	292852.77	188349.85	See Schedule original return
		741675.00	1049022.77				& Co. Brokers.
All purchased since Mar. 1, 1913							

Original return - Morris Brown

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Defendant's Exhibit "K".

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M.C.

Office of
Internal Revenue Agent in Charge
Pittsburgh Division

TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

PITTSBURGH, PA.

November 8, 1921

Time consumed
Aeschmitt 6 days
E S Martin 6 days

Internal Revenue Agent in Charge,
Pittsburgh, Penna.

In re: A. Overholt & Co., Pittsburgh, Pa.
Partnership - Amended

In connection with supplemental report of even date amending report on Consolidated Corporations A. Overholt & Co., & West Overton Distilling Co., for the year 1918, I submit herewith supplemental report on A. Overholt & Co., partnership for the year 1919 and report on year 1920, and would refer to [illegible] for explanation in regard to set-[illegible] and new supplemental schedule showed [illegible] fully completed in [illegible] [illegible] as shown in Exhibits 2, 3, 4, 5 and 6.

No depreciation was taken on buildings and machinery in 1920, as their assets has been reduced to practically zero value.

[illegible]

I have read the figures of [illegible] [illegible] the year 1920. [illegible] 1919 should be [illegible] [illegible] they were [illegible] report even [illegible] [illegible]

[illegible] report has no importance.

[illegible]
Internal Revenue Agent.

[redacted]

[redacted]

[redacted]

[redacted]

[illegible] Pennsylvania, Penna.
[illegible]

[illegible]	Second amended	Difference
[illegible]	3,567.17	
[illegible]	10,000.00	
[illegible]		1054561.67pl.
[illegible]		12500.00 -
[illegible]		1067,061.67 p
[illegible]		130,418.45 -
[illegible]		1074,980.18 p
[illegible]		1067,061.67 p
[illegible]		1054,561.67 p
[illegible]		12,500.00 -
[illegible]		[illegible]
[illegible]		[illegible]
[illegible]		[illegible]
[illegible]		[illegible]
[illegible]		[illegible]
[illegible]		[illegible]
[illegible]		[illegible]
[illegible]		[illegible]

[redacted]

[redacted]

[redacted]

Prior years		
Capital account decreased as above	1950,555.58	126,962.84
	3255,600.09	3255,600.09
Dec. 31, 1919 - Capital account corrected		1909,426.18
Net income corrected		617,263.85
		2526,690.03
Donations		
Withdrawals 50,000.00 Exp. 750,600.00	3,960.00	
bills receivable	800,600.00	804,560.00
Dec. 31, 1920 - Capital account corrected		1722,130.03

Dec 31, 1919 - Cap per books [illegible]

Add

Bills Payable [illegible]

Prepaid Taxes [illegible]

Income Taxes 1916-17-18 [illegible]

Total [illegible]

Deduct

Organization Expense [illegible]

West Everton Dist. 6 [illegible]

Dec 31, 1919 - Cap as adjusted [illegible]

Dr	Cr
	[illegible]
[illegible]	
[illegible]	
[illegible]	

[redacted]

A. Overholt & Company Pittsburgh, Penna.

Profit & Loss

fference	1919 Inventory	1919 End Inventory	Difference
	480,756.31	480,756.31	
	54,400.71	54,400.71	
	1017,048.14	1017,048.14	
	1071,448.85	1071,448.85	
	500,000.00	500,000.00	
	171,644.54	171,644.54	
			114.60 pl.
	1017,048.14	1017,048.14	114.60 pl.
			20,114.60 -
			20,114.60 -
			250.00 pl.
			614.50 -

n for 1919 L.E.Int.

(133264.95)	Loss	1487.50	(133852.45)
(133264.95)	"	1487.50	(133852.45)
(133264.95)	"	1487.50	(133852.45)
(397094.85)	"		401557.35

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[redacted]

A. [illegible] & Co., Partnership
[illegible] 2 0
[illegible] & Loss

	Per Books	Amended	Difference
	[illegible],[illegible].53	1335,325.53	
	[illegible].67	900,365.52	198,558.85 pl.
	[illegible]	[illegible],[illegible].57	198,558.85 pl.
	[illegible]	[illegible].35	
	[illegible]	[illegible].01	1,410.00 -
	[illegible]	[illegible].77	
	[illegible]	[illegible].00	
	[illegible]	[illegible].86	
	[illegible]	[illegible].80	
	[illegible]	[illegible].45	
	[illegible]	[illegible]	
	[illegible]	[illegible]	
	[illegible]	[illegible]	400.00 -
	[illegible]	[illegible]	[illegible].00 -
	[illegible]	[illegible]	[illegible] -

Mr. Eustace:

Defendant now offers in evidence as Defendant's Exhibit "L", a certified photostatic copy of revenue agent's report dated November 8, 1921, covering the examination of the affairs of West Overton Distilling Company for the year 1920.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "L".

(Page 450 a.)

	1918 Amended	1918 2nd Amended	Differenc
[illegible]	[illegible]78,250.88	3378,250.88	—
[illegible]			
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]			
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	
Net Income	1611,343.90	[illegible]	888,333.72
[illegible]	[illegible]	[illegible]	
[illegible]	1701,684.96	[illegible]	585,[illegible]

Net loss to apply to Individual Partner's return for 1
as follows:

A. W. Mellon 1/3
R. B. Mellon 1/3
H. C. Frick 1/3
Total

[redacted]

130-P

M.C.

OFFICE OF
INTERNAL REVENUE AGENT IN CHARGE
PITTSBURGH DIVISION

TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE

PITTSBURGH, PA.

November 8, 1921

Internal Revenue Agent in Charge,
Pittsburgh, Penna.

In re: West Overton Distilling Co.

In connection with report of even date on A. Overholt & Co., I submit herewith report for the year 1920 on Partnership, West Overton Distilling Co., with offices Frick Bldg., Pittsburgh, Pa., and Scottdale, Pa., Revenue Agent, E. S. Martin examined the books and it is from his figures I have compiled the results herewith.

There is no change on this partnership on report submitted by Revenue Agent Thos. M. Miller and myself on Feb. 2, 1921.

The Liquidating [illegible] paid in 1920 was disallowed and the [illegible] condition that the [illegible] assessed here for the [illegible] and agrees to definitely settle on this basis - I recommend that the Department close the case.

No depreciation allowed, as obsolescence to Scrap value was previously taken.

See pages 2, 3, 4 and 5.

Refer to report on A. Overholt & Co., for Agreement.

Albert W. Smith,
Internal Revenue Agent.

[redacted]

WEST SVERTON DISTILLING COMPANY

Profit & Loss

	Difference	1918 Amended	1919 2nd Amended	Difference	1920 Amended	1920 2nd Amended	Difference
		179,587.68			218,660.21		
		130,893.48			181,135.00		
		130,893.48			181,135.00		
		121,125.00			93,819.44		
		9,768.48			87,315.56		
		169,799.92			190,724.75		
		830.96					
		170,630.20			190,724.75		
		141,912.95			32,281.91		
		28,712.25			158,442.84		

Sarter L.R.	Partnership 1919	Partnership 1920
141.67	8762.41	52814.28
141.67	8762.41	52814.28
141.68	8762.41	52814.28
		158442.84

Ex

	1918 Amended	1918 2nd Amended
Net income [illegible]	[illegible]	
[illegible]		
Tax [illegible]	[illegible]	
[illegible]	[illegible]	
[illegible]	[illegible]	
Net [illegible]	[illegible]	
Surplus [illegible]	[illegible]	
[illegible]	[illegible]	
Total [illegible]	[illegible]	
[illegible]	[illegible]	
Net income	[illegible]	

Net income members individual return as follows

L.W. Wallace	1/3	8,904.08
R.R. Wallace	1/3	8,904.08
H. C. Frick	1/3	8,904.08
		26,712.25

WEST OVERTON DISTILLING CO.

1 9 2 0
Profit & Loss

	Per Books	Amended	Difference
Sales Less returns	218,050.31	218,050.31	
Deductions			
Labor	8,563.92	8,188.92	375.00 -
Taxes	2,236.44	2,236.44	
Depreciation	1,500.00	1,739.49	239.49 pl.
Loss on Liberty Bonds	507.50	507.50	
Storage	1,211.40	1,211.40	
Insurance	5,528.16	5,528.16	
Other expenses - Bad debts, etc.	13,418.31	11,650.00	1,768.31 -
Liquidation	138,657.38	-	138,657.38 -
Salesmen's Commissions	1,230.00	1,230.00	
Inventory Jan. 1, 1920	90,965.83	121,135.00	30,169.17 pl.
	263,818.94	153,425.91	110,392.03 -
Inventory Dec. 31, 1920	63,650.27	93,819.44	30,169.17 pl.
Total deductions	200,168.67	59607.47	140,561.20 -
Net income	17,881.64	158,442.84	140,561.20 pl.

DIFFERENCE

Donations Xmas Gifts - employees disallowed	375.00
" Presents to employees	1,768.31
Profits credited to liquidation account	138,657.38
	140,800.69

5% Depreciation on mixed asset allowed 1739.49
Less - amount taken 1500.00 — 239.49
Total addition to net income 140,561.20

Net income to Partners as follows:

A. W. Mellon	1/3	52,814.28
R. B. Mellon	1/3	52,814.28
H. C. Frick	1/3	52,814.28

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WEST OVERTON DISTILLING COMPANY
BALANCE SHEETS AMENDED DEC. 31, 1919 - 1920

Assets	Dec. 31, 1919	Dec. 31, 1920
Cash	(353.11)	196,587.60
Accounts receivable	4.88	149.50
Land Bldgs. & Machinery	34,789.79	36,131.80
Old Whiskey Inventory	121,135.00	93,819.44
Supplies	14,504.99	13,899.62
Stamps	972.10	538.00
Liberty Bonds	10,000.00	
Licenses	58.69	
Prepaid taxes	1,509.38	1,017.94
Prepaid water rent	22.50	22.50
Prepaid insurance	3,209.36	3,068.21
US Liberty Bond Int. accured	109.49	109.49
Deferred expenses	1,342.01	-
	187,305.08	345,344.10

Liabilities				
1916 Income tax		699.11	699.11	
1917 "		2,862.96	2,862.96	
Notes payable - A. Overholt Co.		20,000.00	20,000.00	
Res. for deprec.		-	1,739.49	
Net worth- H.C.Frick	54,581.00	-		106680.84
A.W. Mellon	54,581.01			106680.86
R.B. Mellon	54,581.00	163,743.01	320042.54	106680.84
		187,305.08	345344.10	

CAPITAL ACCOUNT

Capital account amended - Dec. 31, 1919		163743.01
Net income amended 1920		158442.84
		322185.85
Donations		2143.31
Capital account - Dec. 31, 1920		320042.54

Profits 1920 - H. C. Frick 1/3	52,814.28	
A. W. Mellon 1/3	52,814.28	
R. B. Mellon 1/3	52,814.28	
Total	158,442.84	

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WEST OVERTON DISTILLING CO.
1 9 2 0
BALANCE SHEET

Assets	Per Books Dec.31,1920	Amended	Difference
Cash	196,587.60	196,587.60	
Accounts receivable	149.50	149.50	
Land Bldgs. & Mchry.	48,500.00	36,131.80	12,368.20 -
Old Whiskey Inventory	63,650.27	93,819.44	30,169.17 pl
Supplies	13,899.62	13,899.62	
Stamps	538.00	538.00	
Prepaid taxes, ins. etc.	4,108.65	4,108.65	
U S Liberty Bond accrued	-	109.49	109.49 pl
	327,433.64	345,344.10	17,910.46 pl
Liabilities			
Income tax 1916		699.11	
" 1917		2,862.96	3,562.07 pl
Bills payable - A.Overholt Co.		20,000.00	20,000.00 pl
Res. for deprec.		1,739.49	1,739.49 pl
Capital account	327,433.64	320,042.54	7,391.10 -
	327,433.64	345,344.10	17,910.46 pl

DIFFERENCES

		Add capital	Deduct Capital
Dr - Capital Cr. asset obsolescence prior year	15,210.21		
Dr - Asset - Cr. Capital amt. chgd. off 1920	1,500.00		
Dr Asset - Cr. Deferred exp. 1920	1,342.01		12,368.20
" Inv. cr. capital prior year change		30,169.17	
Dr L.B.int. accrued cr. capital prior year		109.49	
Dr Cap. cr. accts. rec. Income tax Corporation prior years			3,562.07
Dr - Capital Cr. Bills payable - Overholt a/c prior years			20,000.00
Dr - Capital Cr - Depr. Reserve			1,739.49
Capital reduced 1920		7,391.10	
		37,669.76	37,669.76

Note - Prior year changes taken from former report Examining Officer's on A. Overholt & Co., dated Feb. 2, 1921.

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Mr. Eustace:

Defendant offers in evidence certified photostatic copy of appeal submitted by A. W. Mellon, Pittsburgh, Pennsylvania, executed January 20, 1923, which is in protest of the determination of the Commissioner as evidenced by Bureau letters heretofore admitted in evidence; this exhibit being identified as Defendant's Exhibit "M".

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "M".

(Page 452 a.)

[redacted]

1/19/23

IN THE TREASURY DEPARTMENT

BUREAU OF INTERNAL REVENUE

IN THE MATTER OF ADDITIONAL INCOME TAXES PROPOSED TO BE ASSESSED FOR THE TAXABLE YEARS 1919 AND 1920.

APPEAL OF A. W. MELLON, of PITTSBURGH, PENNA.

AND NOW, January 19, 1923, comes A. W. MELLON, and appeals from the action of the Income Tax Unit in proposing to assess against him additional income taxes for the years 1919 and 1920, as stated in Treasury Department letter dated December 22, 1922, reference IT:SA:As-CCG.

The exceptions upon which this appeal is based are as follows:

FIRST. The Income Tax Unit erroneously reduced the value of the good will of A. Overholt & Company as of March 1, 1913 to $435,575.00.

SECOND. The Income Tax Unit failed to allow A. Overholt & Company a good will value of $1,640,557.90 as of March 1, 1913.

THIRD. The determination and allowance as of March 1, 1913 of a good will value of A. Overholt & Company at $1,640,557.90 would eliminate any additional tax liability against appellant for the years 1919 and 1920.

The facts upon which the foregoing exceptions are based are as set forth in the appeal this day filed in behalf of A. Overholt & Company, as shown by photostatic copies of the

[redacted]

appeal and the brief in support thereof which are attached hereto, made a part hereof and marked Exhibits "A" and "B."

For the reasons as set forth in the appeal filed in behalf of A. Overholt & Company, exceptions have been taken as stated herein, to the findings of the Income Tax Unit as set forth in Treasury Department letter dated December 29, 1922. An appeal therefrom is made to the Commissioner of Internal Revenue as provided in said letter.

Appellant avers that this appeal is not taken or interposed for the purpose of delaying the final determination of the correct tax liability.

WHEREFORE, your appellant respectfully submits that a proper determination of the value as of March 1, 1913 of the good will of A. Overholt & Company will disclose no additional tax liability upon his part for the years 1919 and 1920.

Appellant requests that he be given an opportunity for an oral hearing.

Respectfully submitted,

A. O. Mellon

W. A. SEIFERT
Attorney for Appellant
747 Union Arcade
PITTSBURGH, PA.

DISTRICT OF COLUMBIA) SS:

Before me, a Notary Public duly authorized thereto, personally appeared A. W. MELLON, who, being duly sworn according to law, deposes and says that the statements set forth in the foregoing appeal are true and correct, as he verily believes, and that said appeal is not taken for the purpose of delaying the final determination of appellant's correct tax liability.

A. W. Mellon

SWORN to and subscribed before me this 20th day of January, A. D. 1923.

Notary Public.

My commission expires: Sept 21, 1925

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IN THE TREASURY DEPARTMENT

BUREAU OF INTERNAL REVENUE

IN THE MATTER OF ADDITIONAL INCOME AND PROFITS TAXES PROPOSED TO BE ASSESSED AGAINST A. OVERHOLT & COMPANY FOR THE TAXABLE YEARS 1916, 1917 AND 1918.

APPEAL OF A. OVERHOLT & COMPANY, OF PITTSBURGH, PENNA.

AND NOW, January 19, 1923, comes A. OVERHOLT & COMPANY, and appeals from the action of the Income Tax Unit in proposing to assess against it additional income and profits taxes for the years 1916, 1917 and 1918, as stated in Treasury Department letter dated December 22, 1922, reference IT:SA:As-CCG.

The exceptions upon which this appeal is based are as follows:

FIRST. The Income Tax Unit erroneously reduced the value of the good will of A. Overholt & Company as of March 1, 1913 to $435,575.00.

SECOND. The Income Tax Unit failed to allow A. Overholt & Company a good will value of $1,640,557.90 as of March 1, 1913.

THIRD. The determination and allowance as of March 1, 1913 of a good will value of A. Overholt & Company at $1,640,557.90 will eliminate any additional tax liability against appellant for the year 1918.

The facts upon which the foregoing exceptions are based

Exhibit "C"

are as set forth in the brief this day filed in behalf of A. Overholt & Company accompanying this appeal.

For the reasons as set forth in this appeal, exceptions are taken as stated herein to the findings of the Income Tax Unit as set forth in Treasury Department letter dated December 22, 1922.

Appellant avers that this appeal is not taken or intended for the purpose of delaying the final determination of its correct tax liability.

WHEREFORE, your appellant respectfully submits that a proper determination of the value as of March 1, 1913 of the good will of this Company will disclose no additional tax liability upon its part for the year 1918.

Appellant requests that it be given an opportunity for an oral hearing.

Respectfully submitted,

A. OVERHOLT & COMPANY

By A. J. Hicks
President

W. A. SEIFERT
Attorney for Appellant
747 Union Arcade
PITTSBURGH, PA.

a5

STATE OF PENNSYLVANIA,)
) ss:
County of Allegheny.)

Before me, a Notary Public duly authorized thereto, personally appeared D. J. HICKS, who, being duly sworn according to law, deposes and says that the statements set forth in the foregoing appeal are true and correct, as he verily believes, and that the said appeal is not taken for the purpose of delaying the final determination of appellant's correct tax liability.

D. J. Hicks

SWORN to and subscribed before me this 19th day of January, A. D. 1923.

Wm J. Phillips
Notary Public.

My commission expires: Feb. 21, 1923.

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BEFORE THE TREASURY DEPARTMENT

- - - -

On the basis of this report, the Bureau of Internal Revenue questioned the allowance of a deduction on account of obsolescence of good will. Internal Revenue Agent A. W. Smith, in a supplementary report, dated November 8, 1921, arrived at a computation of the good will value, as at March 1, 1913, of $1,600,000.00. Accordingly the Revenue Agent recommended that the corporation be allowed, for the year 1918, a deduction from income, amounting to $525,[illegible]23.73, on account of obsolescence of good will. This adjustment, with the revision of another item, changed the amount of the additional tax for 1918 to $[illegible]7,177.18.

Under date of December [illegible], 1922, the Department issued an assessment letter covering the years 1916, 1917 and 1918. This letter agreed with the examining officer's report, except as to the deduction on account of loss due to obsolescence of good will.

[illegible] contends that the March 1, 1913, value of the good will [illegible] $435,[illegible]7[illegible].00 instead of $1,6[illegible],[illegible].00, [illegible] as follows:

1913	$[illegible],086.10
1919	[illegible],[illegible]1.[illegible]
1920	[illegible],[illegible]7.70
	$435,575.00

[illegible] properly allowable to the corporation [illegible]. [illegible], however, [illegible] the amount [illegible] $435,[illegible]7[illegible].00, as the value of the [illegible] March 1, 1913. [illegible] to the [illegible] allowable the amount of the obsolescence of good will over the period January 31, 1919 to February 1[illegible], 1920, and makes no exception thereto, feeling that this portion of the computation is in accordance with the principle and rule laid down by the Advisory Tax Board in T. [illegible] D. 44, Cumulative Bulletin #1, page 133.

VALUE OF GOOD WILL OF A. OVERHOLT & COMPANY AS AT MARCH 1, 1913

Before going into the relative merits of the method and percentages used by the Bureau in establishing the value of the good will at $435,575.00, and the method used by the corporation in arriving at the value as at that date, attention is directed to an oversight on the

a 9

part of the Unit in the computation of taxes outlined in the Bureau's letter dated January 3, 1923.

In establishing the value of the good will as at March 1, 1913, the Bureau uses as net tangible assets for the three years, 1910, 1911 and 1912, the following amounts:

Net Tangible Assets:

December 31, 1910	$1,737,485.85
December 31, 1911	2,048,007.39
December 31, 1912	2,294,188.76
Average Net Tangible Assets	$2,026,560.70

These figures appear to be in error for the records and papers in the case disclose the following amounts as Net Tangible Assets at the beginning of the respective years:

December 31, 1909	$1,411,328.57
December 31, 1910	1,737,485.85
December 31, 1911	2,048,007.39
Average Net Tangible Assets	$1,732,273.94

There are differences of opinion as to the percentages to be used, depending upon local conditions, time, and rates of interest considered as a fair return to capital and the earnings in excess of such fair return to capital are of necessity attributable to an intangible asset, namely, goodwill, the amount of which is obtained by capitalizing those earnings at a certain percentage.

Therefore, in order to apply this economic principle correctly, it is necessary to use the net tangible assets which were on hand at the beginning of the year, for, these are the assets which earn the income for that particular year. The Unit, in applying this principle, has used the net tangible assets on hand at the close of the year, which amount necessarily included the income for the entire year. This manner of computing the average net tangible assets is not in accordance with the Income Tax procedure. There is no doubt that the Unit will agree to use the net tangible assets as shown by the balance sheets at the beginning of the year instead of the net tangible assets at the close of the year.

In this particular case, assuming that everything else is correct (but this is not conceded by the corporation), this point alone establishes a difference in favor of the taxpayer of approximately

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$200,000.00 in the value of the good will as at March 1, 1913.

In order to present the case fully and intelligently, the following additional information is submitted:

HISTORY OF THE COMPANY

In 1810, Abraham Overholt established The Overholt Distillery at [illegible], Pennsylvania. This distillery was operated by the [illegible] family, [illegible] portions of the [illegible] the [illegible] rye whiskey.

In 1872, [illegible] popularity of [illegible] whiskey, [illegible] point, [illegible] Overholt. [illegible]

[illegible]

189[illegible]

[illegible]

approximately 1,[illegible] gallons

[illegible] USED IN [illegible] AT MARCH 1, 1913
VALUE OF GOOD WILL

The Bureau's attention is respectfully directed to Paragraph

a10

6, as outlined in A. R. M. 34. In establishing the March 1, 1913, value of good will, the Committee states:

> "In view of the hazards of the business, the changes in popular tastes, and the difficulties of preventing imitation or counterfeiting of popular brands effecting the sales of the genuine goods, the Committee is of the opinion that the figure given of 20 per cent return on intangibles is not unreasonable, and it recommends that no higher figures than that be attached in any case of intangibles without a very clear and adequate showing that the value of the intangibles was in fact greater than would be reached by applying this formula."

[illegible]

[illegible] popular usage as follows:

> "Goodwill is the monetary value placed upon the connection and reputation of a mercantile or manufacturing concern, and discounts the value of the turnover of a business in consequence of the probabilities of the old customers continuing."

Lord Justice Lindley, in an English case, stated in part that "* * * I understand the word to include whatever adds value to a business by reason of situation, name and reputation, connection, introduction to old customers, * * * *."

As stated before, A. Overholt and Company's product was known throughout the entire United States as a very superior brand of rye whiskey, and was sold by practically all of the prominent wholesale and retail liquor dealers. The concern had a large list of old customers who had purchased their product for years, and whose patronage could be reasonably expected to continue. The fact that the business was over one hundred years old and still in existence is good proof that a trade name and good will value attached to the business. However, the fact that the corporation's business continually increased during its entire existence is conclusive proof that a substantial good will value had been established.

The percentage, therefore, at which the corporation has capitalized its earnings is 10 per cent, and it is felt that good will could not be sold to an investor purchasing the business at this figure.

While the Committee, i. e., [illegible], has suggested 15 per cent as a reasonable percentage, it should be borne in mind, that the use of a smaller percentage is not eliminated in cases where such a figure is warranted, especially so in this case from local advantages, favorable credit and exchange conditions existed in the territory of this corporation at the time, i. e., March 1, 1913.

The value of the goodwill of A. Overholt and Company has been computed on the basis of the formula and rules laid down by the Committee in A. R. M. 34, and adopted by the Bureau in arriving at the value of $[illegible],[illegible].00 in the assessment letter addressed to the taxpayer.

The figures used are the same with the exception of the net tangible assets which were used as at the beginning of the respective taxable years, i. e., as at December 31, 1909, 1910 and 1911, respectively.

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COMPUTATION OF THE VALUE OF GOOD WILL
AS AT MARCH 1, 1913

NET INCOME:

Year ended December 31, 1910	$348,274.37
Year ended December 31, 1911	224,474.50
Year ended December 31, 1912	231,227.83
Average Net Income	$267,992.23

NET [illegible]:

Year ended December 31, 1909	1,[illegible]11,3[illegible].[illegible]7
Year ended December 31, 1910	1,7[illegible]7,48[illegible]
Year ended December 31, 1911	[illegible],[illegible]43,[illegible]07.[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible] will	[illegible]

[illegible]

1918	11/23	of	1,[illegible]	[illegible]
1919	1[illegible]/23	of	1,[illegible]	[illegible]7,7[illegible]
1920	1/[illegible]/23	of	1,[illegible]0,[illegible]7.[illegible]	[illegible],[illegible].19
			Total	1,[illegible]0,[illegible]7.[illegible]

AFFIDAVITS

It is conceded by all authorities on the subject of [illegible] valuation of good will that any value placed upon an asset of this nature is largely one of opinion. In fact the Committee in discussing this question stated that "where there is no established market to serve as a guide, the question of value, even of tangible assets, is one largely of judgment and opinion, and the same thing is even more true of intangible assets such as good will, trade marks, trade brands, etc."

a13

Fully realizing the correctness of this statement, the [illegible] has obtained the affidavits (such as would be acceptable [illegible]) of a number of wholesale and retail liquor dealers and [illegible] well acquainted with the product manufactured by [illegible] Company, and well qualified to establish the value of [illegible] March 1, 1913. These affidavits are [illegible] presented to the Bureau as additional [illegible] [illegible].

[illegible] OF [illegible] COUNTY,

[illegible]

Sworn to and subscribed before me this 11th day of January, A. D. 1923.

Wm J Phillips
Notary Public.

My commission expires: Feb. 25, 1923

a14

Mr. Eustace:

Defendant offers in evidence certified copy of appeal of R. B. Mellon, Pittsburgh, Pennsylvania, executed January 19, 1923, being to the same effect as Defendant's Exhibit "M" in the other case; this being marked Defendant's Exhibit "N".

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is identical in language to Defendant's Exhibit "M", except as to the first three pages of Exhibit "N", which are in words and figures as follows:

Defendant's Exhibit "N".

IN THE TREASURY DEPARTMENT

BUREAU OF INTERNAL REVENUE

IN THE MATTER OF ADDITIONAL INCOME TAXES PROPOSED TO BE ASSESSED FOR THE TAXABLE YEARS 1919 and 1920

APPEAL OF R. B. MELLON, OF PITTSBURGH, PENNA.

AND Now, January 19, 1923, comes R. B. Mellon, and appeals from the action of the Income Tax Unit in proposing to assess against him additional income taxes for the years 1919 and 1920, as stated in Treasury Department letter dated December 22, 1922, reference IT:SA:As-CCG.

The exceptions upon which this appeal is based are as follows:

FIRST. The Income Tax Unit erroneously reduced the value of the good will of A. Overholt & Company as of March 1, 1913 to $435,575.00.

SECOND. The Income Tax Unit failed to allow A. Overholt & Company a good will value of $1,640,577.90 as of March 1, 1913.

THIRD. The determination and allowance as of March 1, 1913 of a good will value of A. Overholt & Company at $1,640,557.90 would eliminate any additional tax liability against appellant for the years 1919 and 1920.

The facts upon which the foregoing exceptions are based are as set forth in the appeal this day filed in behalf of A. Overholt & Company, as shown by photostatic copies of the appeal and the brief in support thereof which are attached hereto, made a part hereof and marked Exhibits "A" and "B".

For the reasons as set forth in the appeal filed in behalf of A. Overholt & Company, exceptions have been taken as stated herein, to the findings of the Income Tax Unit as set forth in Treasury Department letter dated December 22, 1922. An appeal therefrom is made to the Commissioner of Internal Revenue as provided in said letter.

Appellant avers that this appeal is not taken or interposed for the purpose of delaying the final determination of his correct tax liability.

WHEREFORE, your appellant respectfully submits that a proper determination of the value as of March 1, 1913 of the good will of A. Overholt & Company will disclose no additional tax liability upon his part for the years 1919 and 1920.

Appellant requests that he be given an opportunity for an oral hearing.

Respectfully submitted,

(Signed) R. B. MELLON.

W. A. SEIFERT,
Attorney for Appellant
747 Union Arcade
Pittsburgh, Pa.

State of Pennsylvania,
County of Allegheny. } SS.:

Before me, a Notary Public duly authorized thereto, personally appeared R. B. MELLON, who, being duly sworn according to law, deposes and says that the statements set forth in the foregoing appeal are true and correct, as he verily believes, and that said appeal is not taken for the purpose of delaying the final determination of appellant's correct tax liability.

(Signed) R. B. MELLON.

SWORN to and subscribed before me this 19th day of January, A. D. 1923.

(Signed) WM. S. PHILLIPS,
Notary Public.

My commission expires:
(SEAL)

Mr. Eustace:

At this time defendant offers in evidence certified photostatic copy of protest to Commissioner of Internal Revenue submitted by W. A. Seifert, attorney for Andrew W. Mellon, executed January 29, 1927, with reference to the income tax of plaintiff for the year 1920, marked for identification Defendant's Exhibit "O".

Mr. Booth:

What is the purpose?

Mr. Eustace:

I might state at this time the purpose of all of these protests which have been offered and received in evidence, and the only purpose, is to show that plaintiff first asserted a claim that said income should be treated as the income of a taxable trust long after the filing of the plaintiff's claim for refund, and filed for no other purpose.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence bearing file mark of January 31, 1927, is in words and figures as follows:

Defendant's Exhibit "O".

BEFORE THE TREASURY DEPARTMENT

COMMISSIONER OF INTERNAL REVENUE
Washington, D. C.

In the Matter of The audit of the Income Tax Return filed by HONORABLE ANDREW W. MELLON, Woodland Road, Pittsburgh, Pennsylvania, for the Calendar Years 1919 and 1920.	}

PROTEST
IT:PA:PYA:ARM

HONORABLE D. H. BLAIR, *Commissioner of Internal Revenue, Washington, D. C.*

Reference is made to letter from your office dated December 16, 1926, addressed to Honorable Andrew W. Mellon and bearing the above Bureau's symbols, showing a deficiency in tax for the years 1919 and 1920 amounting to $390,267.95. It is noted that ten days' time from the date of your letter, December 16, 1926, has been granted in which to file a Protest. On January 12, 1927, an extension to January 31, 1927, was granted within which to file said Protest.

The taxpayer protests the error on the part of the Commissioner of Internal Revenue in refusing to allow as a deduction for the year 1919 the contribution of

$1,350.00 made to the Citizens Committee on the City Plan of Pittsburgh.

The taxpayer protests the error on the part of the Commissioner of Internal Revenue in refusing to allow as a deduction for the year 1920 the contribution of $7,400.00 made to the Citizens Committee on the City Plan of Pittsburgh.

The taxpayer also desires to protest the error on the part of the Commissioner of Internal Revenue in refusing to allow as a deduction from his taxable income for the years 1919 and 1920, respectively, his aliquot part of the value of the goodwill, trade marks, trade names, etc., of A. Overholt & Company, a corporation of the State of Pennsylvania, which goodwill, trade marks, trade names, etc., had a value on March 1, 1913, of $1,364,330.20.

It is respectfully requested that a conference be granted the taxpayer, or his representative, before the Income Tax Unit, at which conference a Memorandum Brief will be filed in support of the taxpayer's contentions.

This Protest is not filed for the purpose of delay.

Respectfully submitted,

(Signed) W. A. Seifert,
Attorney for Andrew W. Mellon.

State of Pennsylvania,
County of Allegheny. } ss.:

Before me, the undersigned authority, a Notary Public in and for the said County and State, personally appeared W. A. Seifert, who says that he is Attorney for Andrew W. Mellon, taxpayer above named, that he has read the foregoing Protest and that the facts therein stated are true and correct in so far as the same are within his own knowledge and in so far as the same are derived from information from others he believes them to be true.

(Signed) W. A. Seifert.

Sworn to and subscribed before me this 29th day of January, A. D. 1927.

(Signed) M. V. Andrews
(seal)

My commission expires:

M. V. Andrews,
Notary Public.

My commission expires January 20th, 1929.

Mr. Eustace:

Defendant also offers in evidence Defendant's Exhibit "P", being a certified photostatic copy of a similar protest filed on behalf of R. B. Mellon.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence bearing file mark of January 31, 1927, is in words and figures as follows:

Defendant's Exhibit "P".

BEFORE THE TREASURY DEPARTMENT

COMMISSIONER OF INTERNAL REVENUE
Washington, D. C.

In the Matter
of
The audit of the Income Tax Return filed by RICHARD B. MELLON, 514 Smithfield Street, Pittsburgh, Pennsylvania, for the calendar years 1919 and 1920.

PROTEST
IT:PA:PYA:ARM

HONORABLE D. H. BLAIR, *Commissioner of Internal Revenue, Washington, D. C.*

Reference is made to letter from your office dated December 16, 1926, addressed to Mr. Richard B. Mellon and bearing the above Bureau's symbols, showing a deficiency in tax for the years 1919 and 1920, amounting to $341,656.37. It is noted that ten days' time from the date of your letter, December 16, 1926, has been granted within which to file a Protest. On January 12, 1927, an extension to January 31, 1927, was granted within which to file said Protest.

The taxpayer protests the error on the part of the Commissioner of Internal Revenue in refusing to allow as a deduction for the year 1920 the contribution

of $8,400.00 made to the Citizens Committee on City Plan of Pittsburgh.

The taxpayer also desires to protest the error on the part of the Commissioner of Internal Revenue in refusing to allow as a deduction from his taxable income for the years 1919 and 1920, respectively, his aliquot part of the value of goodwill, trade marks, trade names, etc., of A. Overholt & Company, a corporation of the State of Pennsylvania, which goodwill, trade marks, trade names, etc., had a value on March 1, 1913, of $1,364,330.20.

It is respectfully requested that a conference be granted the taxpayer, or his representative, before the Income Tax Unit, at which conference a Memorandum Brief will be filed in support of the taxpayer's contentions.

This Protest is not filed for the purpose of delay.

(Signed) W. A. Seifert,
Attorney for Richard B. Mellon.

State of Pennsylvania,
County of Allegheny. } ss.:

Before me, the undersigned authority, a Notary Public in and for the said County and State, personally appeared W. A. Seifert, who says that he is Attorney for Richard B. Mellon, taxpayer above named, that he has read the foregoing Protest and that the facts therein stated are true and correct in so far as

the same are within his own knowledge and in so far as the same are derived from information from others he believes them to be true.

(Signed) W. A. SEIFERT.

SWORN to and subscribed before me this 29th day of January, A. D. 1927.

(Signed) M. V. ANDREWS,
(SEAL)

My commission expires:

M. V. ANDREWS,
Notary Public.

My commission expires January 20th, 1929.

Mr. Eustace:

Defendant offers in evidence a certified photostatic copy of a memorandum brief submitted by W. A. Seifert, attorney for A. W. Mellon, addressed to the Commissioner of Internal Revenue, in support of the protest which has just been offered in evidence; the same being marked Defendant's Exhibit "Q".

Mr. Booth:

For the same purpose?

Mr. Eustace:

It is offered for the same purpose.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence, bearing file mark of February 14, 1927, is in words and figures as follows:

Defendant's Exhibit "Q".

BEFORE THE TREASURY DEPARTMENT

COMMISSIONER OF INTERNAL REVENUE
Washington, D. C.

In the Matter of The audit of the Income Tax Returns filed by HONORABLE ANDREW W. MELLON, Woodland Road, Pittsburgh, Pennsylvania, for the calendar years 1919 and 1920.	IT:PA:PYA:ARM Dated, December 16 1926.

MEMORANDUM BRIEF

HONORABLE D. H. BLAIR,
Commissioner of Internal Revenue,
Washington, D. C.

Reference is made to a deficiency letter from your office dated December 16, 1926, showing an alleged deficiency in tax for the years 1919 and 1920, amounting to $390,267.95.

The question here at issue is:

The Commissioner of Internal Revenue erroneously disallowed as deductions from gross income in the years 1919 and 1920, the amounts of $1350.00 and $7400.00, respectively, representing donations to the Citizens Committee On City Plan of Pittsburgh.

Section 214 (a) of the Revenue Act of 1918, provides:

"That in computing net income there shall be allowed as deductions:

(11) Contributions or gifts made within the taxable year to corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to the special fund for vocational rehabilitation authorized by section 7 of the Vocational Rehabilitation Act, to an amount not in excess of 15 per centum of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. * * *"

Section 1 of the Revenue Act of 1918 provides, in part, as follows:

"That when used in this Act—

The term 'corporation' *includes associations,* joint-stock companies, and insurance companies." (Italics ours.)

Section 231 of the Revenue Act of 1918 provides, in part as follows:

"That the following organizations shall be exempt from taxation under this title:

(6) Corporations organized and operated exclusively for religious, charitable, scientific, or ed-

ucational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual."

The Citizens Committee on City Plan of Pittsburgh was organized prior to the year 1919 as an association for the purpose of promoting the orderly and efficient development of municipalities; promoting the adoption of scientific methods of city and municipal planning; acquiring constructive publicity in matters pertaining to municipal planning problems and their solution; collecting, classifying, analyzing, correlating, interpreting and publishing facts with reference to municipal planning needs, methods and benefits; and preparing and publishing for free distribution scientific model municipal studies and plans.

On or about October 26, 1920, the association known as "Citizens Committee on City Plan of Pittsburgh" was incorporated under the name of "Municipal Planning Association" and since that time has been functioning under that name.

In the year 1919, the taxpayer made the following donations to the association:

May 27th	$ 250.00
September 9th	500.00
November 25th	600.00
Total	$1350.00

In the year 1920, the taxpayer made the following donations to the association:

February 24th	$ 600.00
May 22nd	600.00
August 19th	600.00
November 17th	600.00
December 31st	5000.00
Total	$7400.00

Under date of December 20, 1926, the Commissioner of Internal Revenue issued a decision addressed to the Municipal Planning Association in which it was stated that said corporation was not subject to tax and need not file returns as the purposes and activities of said corporation brought it within the provisions of Section 231 (6) of the Revenue Act of 1918 and corresponding sections of subsequent Acts. A copy of this decision is annexed hereto and marked Exhibit A.

It is respectfully submitted that the income of the taxpayer for the year 1919 as found by the Commissioner should be reduced by the amount of $1350.00 and that the income for the year 1920 as found by the Commissioner should be reduced by the amount of $7400.00.

If the Income Tax Unit determines that these items are not deductible, it is respectfully requested that a conference be arranged at which time the taxpayer will be represented by counsel.

This brief is not filed for the purpose of delay.

Respectfully submitted,

(Signed) W. A. Seifert,
Attorney for A. W. Mellon.

AFFIDAVIT.

State of Pennsylvania,
County of Allegheny. } ss.:

H. M. JOHNSON, being duly sworn according to law, deposes and says that he is the taxpayer's private secretary and duly authorized agent, and that he has read the statements contained in the foregoing brief and that said statements are true and correct as he verily believes.

(Signed) H. M. JOHNSON.

Sworn to and subscribed before me this 11th day of February, A. D. 1927.

(Signed) M. V. ANDREWS,
(SEAL) *Notary Public.*

My Commission expires January 20th, 1929.

Mr. Eustace:

Also, Defendant's Exhibit "R", being a certified photostatic copy of a similar brief submitted with the protest in behalf of R. B. Mellon.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence, bearing file mark of February 14, 1927, is in words and figures as follows:

Defendant's Exhibit "R".

BEFORE THE TREASURY DEPARTMENT

COMMISSIONER OF INTERNAL REVENUE
Washington, D. C.

In the Matter of The audit of the income tax returns filed by RICHARD B. MELLON, 514 Smithfield Street, Pittsburgh, Pennsylvania, for the calendar years 1919 and 1920.	IT:PA:PYA:ARM Dated, December 16 1926.

MEMORANDUM BRIEF

HONORABLE D. H. BLAIR,
Commissioner of Internal Revenue,
Washington, D. C.

Reference is made to a deficiency letter from your office dated December 16, 1926, showing an alleged deficiency in tax for the years 1919 and 1920, amounting to $341,656.37.

The question hereat issue is:

The Commissioner of Internal Revenue erroneously disallowed as deductions from gross income in the years 1919 and 1920, the amounts of $600.00 and $8400.00, respectively, representing donations to the Citizens Committee on City Plan of Pittsburgh.

Section 214 (a) of the Revenue Act of 1918, provides:

"That in computing net income there shall be allowed as deductions:

(11) Contributions or gifts made within the taxable year to corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to the special fund for vocational rehabilitation authorized by section 7 of the Vocational Rehabilitation Act, to an amount not in excess of 15 per centum of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. * * *"

Section 1 of the Revenue Act of 1918 provides, in part, as follows:

"That when used in this Act—

The term 'corporation' *includes associations,* joint-stock companies, and insurance companies." (Italics ours.)

Section 231 of the Revenue Act of 1918 provides, in part, as follows:

"That the following organizations shall be exempt from taxation under this title:

(6) Corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual."

The Citizens Committee on City Plan of Pittsburgh was organized prior to the year 1919 as an association for the purpose of promoting the orderly and efficient development of municipalities; promoting the adoption of scientific methods of city and municipal planning; acquiring constructive publicity in matters pertaining to municipal planning problems and their solution; collecting, classifying, analyzing, correlating, interpreting and publishing facts with reference to municipal planning needs, methods and benefits; and preparing and publishing for free distribution scientific model municipal studies and plans.

On or about October 26, 1920, the association known as "Citizens Committee on City Plan of Pittsburgh" was incorporated under the name of "Municipal Planning Association" and since that time has been functioning under that name.

In the year 1919, the taxpayer made the following donation to the association:

December 5th $600.00

In the year 1920, the taxpayer made the following donations to the association:

February 27th	$ 600.00
June 25th	600.00
September 7th	600.00
September 28th	1600,00
December 31st	5000.00
Total	$8400.00

Under date of December 20, 1926, the Commissioner of Internal Revenue issued a decision addressed to the Municipal Planning Association in which it was stated that said corporation was not subject to tax and need not file returns as the purposes and activities of said corporation brought it within the provisions of Section 231 (6) of the Revenue Act of 1918 and corresponding sections of subsequent Acts. A copy of this decision is annexed hereto and marked Exhibit A.

It is respectfully submitted that the income of the taxpayer for the year 1919 as found by the Commissioner should be reduced by the amount of $600.00 and that the income for the year 1920 as found by the Commissioner should be reduced by the amount of $8400.00.

If the Income Tax Unit determines that these items are not deductible, it is respectfully requested that a conference be arranged at which time the taxpayer will be represented by counsel.

This brief is not filed for the purpose of delay.

Respectfully submitted,

(Signed) W. A. Seifert,
Attorney for R. B. Mellon.

AFFIDAVIT

State of Pennsylvania,
County of Allegheny. } ss.:

D. J. Hicks, being duly sworn according to law, deposes and says that he is the taxpayer's private secretary and duly authorized agent, and that he has read the statements contained in the foregoing brief and that said statements are true and correct as he verily believes.

(Signed) D. J. Hicks.

Sworn to and subscribed before me this 11th day of February, A. D. 1927.

(Signed) M. V. Andrews,
(seal) *Notary Public.*

My Commission expires January 20th, 1929.

Mr. Eustace:

Counsel for plaintiffs will admit that waivers were filed by both A. W. Mellon and R. B. Mellon extending the time for the assessment and collection of tax for the year 1920 to December 31, 1927.

Mr. Booth:

We object to the introduction of it, on the ground of materiality, it is immaterial; the question is not involved whether the tax was barred by the statute of limitations.

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The Court:

We will admit it for the present, at any rate, and overrule your objection and note an exception.

Mr. Eustace:

Defendant offers in evidence Defendant's Exhibit "S", being certified photostatic copy of waiver of right to file petition to the United States Board of Tax Appeals, filed by A. W. Mellon for 1919 and 1920. That is offered for the purpose of supporting the denial of the allegation that the taxes were paid under protest.

Mr. Booth:

Well, that is entirely immaterial; since the Act of 1924 it doesn't have to be paid under protest, and we don't care whether they are paid under protest.

Mr. Eustace:

And also on the question of the change of basis.

Mr. Booth:

Objected to, on the ground it is immaterial and irrelevant.

The Court:

We will overrule the objection and note you an exception.

Which said Exhibit "S" so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "S".

Feb. 21, 1927

WAIVER OF RIGHT TO FILE A PETITION WITH THE U. S. BOARD OF TAX APPEALS

The undersigned taxpayer hereby waives the right to file a petition with the U. S. Board of Tax Appeals under Section 274 (a) of the Revenue Act of 1926 and consents to the assessment and collection of a deficiency in tax for the years 1919 and 1920 aggregating $384,580.45, without prejudice to the right of the taxpayer to file claim for refund of all or part of said deficiency.

(signed) A. W. MELLON
By (signed) H. M. JOHNSON,
Agent.

Woodland Road,
Pgh. Pa.

Date 3/9/27 By

NOTE. —This waiver does not extend the statute of limitations for refund or assessment of tax, and is not an agreement as provided under Section 1106 of the Revenue Act of 1926.

Mr. Booth:

Plaintiffs admit that the additional tax of $175,259.70, plus interest in the amount of $12,527.47 was assessed against plaintiff Richard B. Mellon by the Commissioner of Internal Revenue on May 5, 1927; and a similar assessment in the amount of $190,419.70, plus interest of $12,082.52, was assessed by the Com-

missioner against plaintiff A. W. Mellon on March 19, 1927.

Mr. Eustace:

Defendant offers in evidence Defendant's Exhibit "T" being certified photostatic copy of a letter dated April 16, 1932, from the Commissioner of Internal Revenue to A. W. Mellon, which is the continuation letter with those attached to the claim for refund, which were admitted in the beginning of the testimony.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "T".

April 16, 1932.

Hon. A. W. Mellon,
Woodland Road,
Pittsburgh, Pennsylvania.

Sir:

Your claim for refund of $194,160.75, individual income tax for the taxable year 1920, has been examined and will be rejected for the following reason:

Your claim is based on the statement that amounts of $281,779.95 and $52,814.28 were included in taxable income representing operating profits of A. Overholt Company and West Overton Distilling Company, respectively, and since the partnerships were in liquidation, the profits were not reportable until 1925 when final liquidation occurred.

You are advised that it is held that the operating income and the operating loss of the above named partnerships are reportable in the year in which the income was realized or the loss sustained.

If you do not acquiesce in the proposed action relative to your claim and desire a hearing in the Income Tax Unit at Washington, such hearing will be granted if written request is made therefor within thirty days from the date of this letter.

If a hearing is not requested the rejection will be officially scheduled at the expiration of the period indicated.

A copy of this letter is being forwarded to your representative, Mr. William A. Seifert, in accordance with the authority conferred upon him in your power of attorney on file with the Bureau.

Respectfully,

J. C. WILMER,
Deputy Commissioner.
By (Signed)
Head of Division.

Mr. Eustace:

At this time defendant offers in evidence Defendant's Exhibit "U", being a certified photostatic copy of a letter from the Commissioner of Internal Revenue to Mr. R. B. Melfon, dated April 16, 1932.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is in words and figures as follows:

Defendant's Exhibit "U".

April 16, 1932.

Mr. R. B. Mellon,
6500 Fifth Avenue,
Pittsburgh, Pennsylvania.

Sir:

Your claim for refund of $187,878.17, individual income tax for the year 1920, has been examined and will be rejected for the following reasons:

Your claim is based on the statement that amounts of $281,779.95 and $52,814.28 were included in taxable income representing operating profits of A. Overholt Company and West Overton Distilling Company, respectively, and since the partnerships were in liquidation, the profits were not reportable until 1925 when the final liquidation occurred.

You are advised that it is held that the operating income and the operating losses of the above-mentioned partnerships are reportable in the year in which income was realized or the loss was sustained.

If you do not acquiesce in the proposed action relative to your claim and desire a hearing in the Income Tax Unit at Washington, such hearing will be granted if written request is made therefor within thirty days from the date of this letter.

If a hearing is not requested the rejection will be officially scheduled at the expiration of the period indicated.

A copy of this letter is being forwarded to your representative, Mr. William A. Seifert, in accordance with the authority conferred upon him in your power of attorney on file with the Bureau.

Respectfully,

J. C. WILMER,
Deputy Commissioner.
By (Signed)
Head of Division.

Mr. Eustace:

Defendant offers Defendant's Exhibit "V", being certified photostatic copy of letter dated April 6, 1934, addressed to the Estate of R. B. Mellon, and relating to the tax of R. B. Mellon for the year 1920.

Mr. Booth:

No objection.

Which said exhibit so offered and admitted in evidence is in words and figures as follows: